

1. <u>REPORT DATE:</u>	: 2. <u>BUREAU AGENDA NO.</u>
September 2, 1981	:
3. <u>BUREAU:</u>	: MAR-82-TR-77*
Rail Transportation	:
4. <u>SECTION(S):</u>	: 5. <u>PUBLIC MEETING DATE:</u>
Engineering	:
6. <u>APPROVED BY:</u>	: March 5, 1982
Director: Peteritas 3-5941	:
Supervisor:	:
7. <u>MONITOR:</u>	:
Chairman Shanaman	:
8. <u>PERSON IN CHARGE:</u>	:
J. L. Storch 7-5648	:
9. <u>DOCKET NO:</u>	:
C-00018925	:

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

(a) BOROUGH OF HOMEWOOD AND BOROUGH OF BIG BEAVER

v.

PENN CENTRAL TRANSPORTATION COMPANY, DEPARTMENT OF HIGHWAYS OF THE COMMONWEALTH OF PENNSYLVANIA, PENNSYLVANIA TURNPIKE COMMISSION, COUNTY OF BEAVER AND CONSOLIDATED RAIL CORPORATION

(b) In accordance with the Commission's Order in this proceeding entered September 19, 1978, Consolidated Rail Corporation has submitted a detailed plan for reconstruction of the Homewood Viaduct structure above its tracks, in Beaver County. Formal hearing upon the adoption of said plan and the allocation of costs of construction and future maintenance of the replacement facility was held on September 23, 1980.

(c) The Bureau of Rail Transportation has prepared a recommended Order, directing that certain revisions be made to the plan prior to certification thereof; that demolition of the existing structure and construction of a new replacement structure be effected by Consolidated Rail Corporation; and allocating the costs and expenses of construction and future maintenance of the facility.

The Bureau recommends that the Commission approve and adopt the recommended order.

11. MOTION BY: Commissioner Johnson Commissioner Chm. Shanaman - Yes
 Commissioner Taliaferro - Yes
 SECONDED: Commissioner Cawley Commissioner Jones - Yes

CONTENT OF MOTION: Staff recommendation adopted.

DOCKETED
 N.

RECORDED

March 17, 1982

C-00018925

John H. Herbruck, Esquire
240 Commerce Street
Beaver, PA 15009

Borough of Homewood and Borough of Big Beaver
v.
Penn Central Transportation Company, Department
of Highways of the Commonwealth of Pennsylvania,
Pennsylvania Turnpike Commission, County of Beaver
and Consolidated Rail Corporation

To Whom It May Concern:

This is to advise you that an order has been adopted by the Commission in public meeting on March 5, 1982 in the above entitled proceeding.

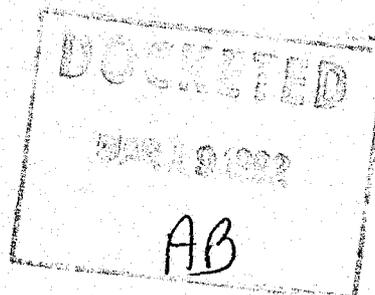
A copy of this order has been enclosed for your records.

Very truly yours,

Jerry Rich, Secretary

fao
Encls.
Cert. Mail
Receipt Req.
Bureau of Rail Transportation
Law Bureau

Similar letter list attached.



PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 5, 1982

Commissioners Present:

Susan M. Shanaman, Chairman
Michael Johnson
James H. Cawley
Linda C. Taliaferro
Clifford L. Jones

EXTRA COPY

Borough of Homewood and Borough of Big Beaver

C-00018925

v.

Penn Central Transportation Company, Department
of Highways of the Commonwealth of Pennsylvania,
Pennsylvania Turnpike Commission, County of
Beaver and Consolidated Rail Corporation

DUPLICATE RECORD.
ORIGINAL CERTIFIED
TO COMMONWEALTH COURT.

Counsel of Record (hearing held September 23, 1980):

Joseph P. Matuschak, ALJ, Sitting Examiner
Joel E. Mazor, Esquire, for Consolidated Rail Corporation
Benjamin Wechsler, Esquire, for Pennsylvania Department of Transportation
Louis R. Martin, Esquire, for Pennsylvania Turnpike Commission
John H. Herbruck, Esquire, for Borough of Big Beaver and Borough of Homewood

ORDER

BY THE COMMISSION:

This matter is before us by reason of complaint filed May 6, 1970, by Boroughs of Homewood and Big Beaver, in Beaver County, alleging that hazardous conditions are posed to the safety of the traveling public using the crossing structure known as the Homewood Viaduct, consisting of 16 spans of reinforced concrete and/or steel beam construction carrying an un-numbered public highway over and above three tracks of Penn Central Transportation Company (now Consolidated Rail Corporation), in said boroughs, by reason of failure of the responsible parties to properly maintain and keep in safe repair and condition the subject structure.

By order issued May 10, 1921 at Docket C. 1971, Pennsylvania Public Service Commission directed the Pennsylvania Company, forerunner to The Pennsylvania Railroad Company, to construct at its own cost and expense, an overhead viaduct structure, complete (subject of this proceeding

at C. 18925), to carry State Highway Route 77 over and above its tracks, including a ramp leading to the then-active Pennsylvania Station. Attendant costs of highway approach relocations were allocated to the State Highway Department (now Pennsylvania Department of Transportation), with costs of property damages allocated to Borough of Homewood and County of Beaver. By further order at the same docket issued April 17, 1922, Pennsylvania Public Service Commission directed that maintenance of the station ramp be the obligation of Borough of Homewood; paving across the viaduct be maintained by the State Highway Department, and that the Pennsylvania Company maintain the viaduct for its entire length.

In 1950, Pennsylvania Turnpike Commission extended its toll highway adjacent to the existing tracks, necessitating construction of a three-span extension of the viaduct to pass above the new toll highway. By its order issued October 16, 1950 at A. 76051, Pennsylvania Public Utility Commission directed Pennsylvania Turnpike Commission to construct the entire improvement at its sole cost and expense, and to pay all costs of property damages, utility relocations, etc., attendant to the extension project. Maintenance of these additional spans was placed upon Pennsylvania Turnpike Commission, exclusive only of the roadway paving thereon, which responsibility was assigned to Pennsylvania Department of Highways (now PennDOT).

At Complaint Docket C. 15932, Pennsylvania Public Utility Commission issued its order dated July 26, 1954, directing that the deteriorated ramp portion of the structure be closed to vehicular traffic, and that The Pennsylvania Railroad Company, at its sole cost and expense, erect vehicular barricades at each end of the ramp structure, remove the existing superstructure and construct a replacement pedestrian bridge in lieu thereof. Maintenance of the new pedestrian bridge was to be performed by Borough of Homewood. At the hearing preceding this order, Department of Highways testified that its State Highway Route 77 (T.R. 18) had been relocated some distance to the east in this area, in accordance with plans approved by the Governor in 1950, and no longer crosses the viaduct. (While construction of a new crossing below the grade of the tracks was approved by the Commission for the new highway location, no relief was sought by Department of Highways from its maintenance obligation at the subject viaduct structure. PennDOT avers the old highway reverted to the borough, and it appears the roadway across the viaduct may now be an un-numbered public highway.)

Further order issued February 28, 1955, at C. 15932, approved an extension of the completion date for removal of the deteriorated ramp superstructure and construction of the pedestrian bridge. However, physical evidence existing at the site reveals that this ordered work was never effected; the present ramp structure being the originally-constructed vehicular ramp, with barricades limiting access to pedestrians only.

In 1970, the instant complaint was filed. Hearings were held on October 8, 1970, April 26, 1973 and June 3, 1977, at which lengthy records were developed resulting in Commission decisions and orders issued respectively on August 23, 1971, June 29, 1973, June 17, 1974, June 2, 1976, August 30, 1978 and October 4, 1979. These orders dealt with matters resulting from the developed record and ongoing circumstances pertinent to the proceeding. The culmination of these efforts was realized in April of 1980, at which time Consolidated Rail Corporation, in compliance with the relevant Commission orders, submitted a detailed plan and cost estimate for the removal of major portions of the present dilapidated viaduct structure and construction of new, replacement facilities on the same alignment. Formal hearing upon the adoption of that plan, and for the allocation of the costs and expenses of construction and future maintenance thereof, was held on September 23, 1980.

At that hearing, testimony was presented for Consolidated Rail Corporation by S. C. Walker, Principal Engineer-Public Improvements; for Borough of Homewood by A. E. DeSanzo, President of Borough Council; for Department of Transportation of the Commonwealth of Pennsylvania by H. A. Sellers, Grade Crossing Engineer; and for Pennsylvania Turnpike Commission by N. Wood, Bridge Engineer. Entered for the record were Conrail's Exhibits Nos. 1, 2 and 3, being respectively a 14-sheet set of construction plans for the replacement bridge, together with a 17-sheet set of original plans for the existing bridge; a single-sheet estimate of construction costs in the amount of \$2,300,000.00; and a single-sheet map of a portion of Beaver County, indicating possible detour routes during reconstruction. Also present at the hearing, but offering no testimony, was a representative of Beaver County Planning Commission. Notice of the time and place of the hearing was also served upon Borough of Big Beaver, County of Beaver and Trustees of Penn Central Transportation Company. Only Borough of Big Beaver was represented by counsel, and none of these parties offered testimony for the record.

Conrail's testimony was directed primarily to a general explanation of its exhibits, and to attendant aspects of any reconstruction of the bridge. The plan, barring any modifications which may be ordered, is complete and ready for use in reconstruction. The drawings propose removal of the 13 original spans on the southerly end of the viaduct (retaining the spans constructed by Pennsylvania Turnpike Commission in 1950), and replacement with seven new, longer spans; five of prestressed concrete adjacent box beam construction and two of welded steel through-plate girder construction over the tracks, which will provide 22'-6" vertical clearance above the rails. The 24-foot wide roadway will be flanked along the westerly side with a five-foot six-inch wide pedestrian walkway. Concrete parapets topped with standard post-and-tube type railings will extend full-length, both sides of the bridge, except on the steel girder spans above the rails, where four-foot high wire-mesh barrier fencing will be provided above the top flange level. Roadway lighting will also be provided for, with high-mount aluminum poles and fixtures. All existing piers will be removed to footing level, with new

reinforced concrete open-bent piers to be built on the existing foundations. Conrail foresees no necessity for additional right-of-way; no involvement with any non-carrier utility facilities; and suggests use of the present detour route established for vehicles in excess of the current three ton posted limit. The carrier's comprehensive estimated cost of \$2.3 million, dated August 24, 1979, includes amounts for railroad force-account work, plans preparation, etc., itemized as follows:

ESTIMATE OF COST

Demolition and clearing site	\$ 200,000
Foundation excavation	15,000
Class B concrete	20,000
Class A concrete	60,000
Class AA concrete	42,000
Reinforcing steel	128,000
Formwork	132,000
Structural steel	360,000
Prestressed concrete box beams	616,000
Bituminous paving	112,000
Railing	25,200
Protection screen	7,500
Drainage inlets and downspouts	12,000
Light standards and wiring	20,000
Temporary support for Turnpike span	5,000
Expansion joints	26,400
Bridge reconstruction cost	<u>\$1,781,100</u>
Maintaining detour	150,000
Field office	10,000
Railroad signal work	40,000
Railroad flagging and protection	32,000
Engineering	106,900
Contingencies	<u>180,000</u>
Total project cost	<u>\$2,300,000</u>

Conrail estimates that it will take approximately four months following issuance of a Commission order to begin construction, with an additional 15 months required to complete all work in accordance with its plan. No offer was forthcoming by the carrier to participate in the work or the costs of construction, or of future maintenance of the project.

Testimony of Homewood Borough concentrated on its objection to the elimination from Conrail's plan of any provision for reconstruction of the existing ramp leading off the east side of the viaduct structure to a portion of the borough lying east of the "we" portion of the tracks in this area. This ramp, constructed as a portion of the original viaduct in 1921, accommodated vehicular traffic via two structural spans and an earth-fill ramp. Closed to vehicular use in 1954 under Commission order because of severe deterioration, it has been retained in use for

pedestrians since that date. Conrail's plan proposes to eliminate this ancillary access ramp from reconstruction. The borough deems it important and appropriate to reconstruct the ramp spans for vehicular and pedestrian traffic at the same time as, and in conjunction with, the viaduct reconstruction contract, and opposed the possible alternative of a pedestrian stairway in this area. While agreeing to continue to maintain the existing earth-fill portion of the ramp, the borough does not agree to perform any work nor to participate in any costs of reconstruction for any portion of the structure. Borough of Homewood will agree to maintain the roadway paving on the new structure, following completion of the project by others. Borough of Big Beaver declines any participation in work or costs of reconstruction, or of future maintenance, at this location.

Department of Transportation has reviewed Conrail's plan for reconstruction and has no criticism thereof. However, the department does not agree to bear any costs of reconstruction or future maintenance, and further, is of the position it should be relieved of all responsibility since the roadway is not a State-owned highway, but primarily serves local traffic needs.

Pennsylvania Turnpike Commission offered a six-point critique of the reconstruction plan, suggesting (a) changes in drainage scupper details and spacing, (b) use of PennDOT standard parapet and/or railing details, (c) use of membrane waterproofing under bituminous overlay on the Turnpike spans and new steel girder spans, (d) rearrangement of prestressed box beams, (e) gradual transition of 24-foot curb-line to match 23-foot curb width on Turnpike spans, and (f) use of uniform cross-slope of deck to effect drainage to one side of bridge only, and to provide some superelevation throughout the curved portion of the roadway. Specifics of these recommendations are contained in the notes of testimony of the hearing held September 23, 1980, pages 243 through 245. The Turnpike Commission agrees to be responsible only for required repairs, if any, to the structural portions of the spans constructed by it in 1950, and for which it presently has maintenance responsibility.

In a closing statement by counsel for Consolidated Rail Corporation, it was argued that the subject proceeding was instituted in 1970, at a time well in advance of the creation of Conrail; that the Pennsylvania Public Utility Commission had determined the necessity for reconstruction of the structure, based on findings of lack of maintenance, prior to the inception of Conrail; and that at the time of transfer of the line of railroad from Penn Central Transportation Company to Consolidated Rail Corporation, the value of the structure was essentially nil and of no benefit to the new operator. Counsel argued that the Commission should, therefore, assess the costs of plans preparation and bridge reconstruction against the present Penn Central Corporation, the legal surviving viable entity evolving out of the bankruptcy proceedings of Penn Central Transportation Company. Counsel for Department of Transportation joined in Conrail's position on this point.

Upon careful consideration and review of all the evidence of record in this proceeding, we make the following Findings of Fact relevant to the matters and things herein involved, and which we deem pertinent to a decision in this proceeding:

FINDINGS OF FACT

(Numbers in parentheses indicate page number of Notes of Testimony)

1. The crossing involved in this proceeding is known as the Homewood Viaduct, located partly in Borough of Homewood and partly in Borough of Big Beaver, Beaver County, which carries an un-numbered public highway over and above the grade of tracks of Consolidated Rail Corporation and the Pennsylvania Turnpike. (5)

2. The records and orders of all prior proceedings relevant to this structure were incorporated into the record of the subject proceeding (C. 18925) by reference, consisting of the following:

Public Service Commission Orders at C. 1971, dated January 20, 1919, May 10, 1921, and April 17, 1922 (6, 7);

Public Utility Commission Order at A. 76051, dated October 16, 1950 (6, 8);

and Public Utility Commission Orders at C.15932 dated July 26, 1954 and February 28, 1955 (10, 11, 12).

3. The original 13 spans of the present 16-span viaduct were built by The Pennsylvania Railroad Company to carry State Route 77 above its tracks, in accordance with Public Service Commission orders at C.1971, and consist of steel through-girders and reinforced concrete T-beams, providing a 23-foot wide roadway, one 5-foot wide sidewalk along the west side, and an 18-foot wide ramp off the east side, with an original length of 567 feet. (8)

4. The original portions of the viaduct, as constructed, permitted the abolition of three at-grade crossings of The Pennsylvania Railroad Company tracks and State Highway Route 77 (Traffic Route 18), and provided access to the then active railroad station building, at ground level, via a side ramp extending off the main viaduct spans. (See #2 above)

5. Under the terms of the orders at C. 1971, The Pennsylvania Railroad Company bore the total costs of all structural construction, at its sole expense; and further, was responsible for all structural maintenance except for the wearing surface thereon, which was the responsibility of the State Highway Department. (See #2 above)

6. In 1950, Pennsylvania Turnpike Commission, at its sole cost and expense, constructed three additional spans at the northerly

end of the viaduct, in accordance with Public Utility Commission orders at A. 76051, to carry the viaduct over and above the westerly extension of the toll road, situated parallel to the railroad at this location.

(8)

7. This 132-foot long viaduct extension was, likewise, of steel girder and/or reinforced concrete T-beam construction, with a 23-foot wide roadway and 5-foot wide sidewalk. Department of Highways of the Commonwealth of Pennsylvania is responsible for maintenance of the wearing surface on the three new spans, while Pennsylvania Turnpike Commission is solely responsible for all structural maintenance of these portions. (See #2 above)

8. In 1950, Department of Highways constructed a new highway to the east of the viaduct and relocated State Highway Route 77 to this new routing. (ref. PUC order at A. 76076). (11, 12)

9. In 1955, as a result of deterioration and lack of proper maintenance, Pennsylvania Public Utility Commission directed, at C. 15932, that the ramp portions of the structure be barricaded and closed to all vehicular traffic. (See #2 above)

10. The orders at C. 15932 also directed The Pennsylvania Railroad Company, at its sole cost and expense, to demolish the existing vehicular side ramp and to construct a pedestrian bridge in lieu thereof; which work was never effected. (See #2 above)

11. There are three tracks beneath the structure, over which approximately 45 trains operate each day (passengers and freights), at speeds varying from 5 mph to 35 mph. Vertical clearance above the tracks is 21 feet 5 inches. (46, 47)

12. Original design loading for the structure was 20-Ton trucks, maximum, plus 25% impact loading. (19)

13. In 1970, the structure was posted for a 15-Ton weight limit. (49, 50)

14. An in-depth inspection of the structure performed by Penn Central Transportation Company in 1971 disclosed weaknesses which resulted in the posting of the bridge for a 3-Ton load limit. (124, 125, 134).

15. A posted detour is in use for vehicles in excess of 3 Tons. (221)

16. Current legal vehicular weight limits are in excess of the posted loading at the subject viaduct. (59)

17. A 2-day manual traffic count conducted in 1970 indicates 978 vehicles and 69 pedestrians used the bridge during a typical 14-hour daytime period. (15)

18. A 5-day metered traffic count conducted in 1970 indicates an average of 1,096 vehicles used the bridge during a typical 24-hour period. (16)

19. Traffic using new State Highway Route 77 (Traffic Route 18) has, on several occasions, been detoured by Department of Transportation over old Route 18 and across the subject viaduct, by reasons of accidents and emergencies on the new road. (26)

20. In order to provide service to most areas of the borough, fire equipment must either traverse the subject structure or travel an additional 5 miles over alternate routes. (17)

21. School buses servicing three elementary schools in the vicinity of the viaduct must traverse the structure a minimum of six trips each day. All other school buses, where possible, have been routed over alternate roads, at extra cost. (35)

22. Borough of Homewood has, of necessity and in the interest of safety, placed cold-patch bituminous material into holes in the deck of the bridge, to preclude accidents. (28)

23. Borough of Homewood has also installed steel plates over holes and heavily-deteriorated areas of the sidewalk, to prevent pedestrian injury. (34)

24. The original portions of the viaduct cannot be restored to their original capacity, nor to a safe condition. (125, 127)

25. The portions constructed by Pennsylvania Turnpike Commission are in excellent condition and entirely adequate to bear the highway loads for which they were designed. (81, 144)

26. In 1954, Pennsylvania Department of Highways abandoned approximately 18,000 feet of old State Highway Route 77 (Traffic Route 18) which crossed the subject viaduct, re-routing the highway to a newly-constructed location easterly of the old road. (88)

27. No State Highway Route presently traverses the viaduct. (90)

28. Department of Transportation, nonetheless, has never been absolved of its maintenance obligation for the wearing surface on the viaduct, by reason of any order or action by Pennsylvania Public Utility Commission. (98)

29. Department of Transportation has, since 1954, made payments to Borough of Homewood through the liquid fuel tax reimbursement program, for those portions of abandoned highway noted in #27, above. (88, 89)

30. Consolidated Rail Corporation, having assumed all operations and facilities of Penn Central Transportation Company under the terms of the Regional Rail Reorganization Act of 1973, is the present owner and operator of the rail facilities at this location. (186)

31. The tracks beneath the structure constitute a vital link in the main-line rail traffic between the eastern seaboard and the midwest. (184, 185)

32. The railroad has, in the past, performed certain emergency-type repairs and isolated items of work on the structure, as required for safety purposes to preclude danger to the public, but has done little in the line of routine maintenance. (130, 187, 188)

33. A grade-separation structure at this location does impart benefit to the railroad, in lieu of an at-grade crossing. (179, 180)

34. Department of Transportation would incur benefit, were it to be relieved of its maintenance obligation for the wearing surface on the viaduct. (208, 209)

35. Plans are of record recommending demolition of all portions of the viaduct and side-ramp constructed in 1922, and reconstruction of the viaduct structure, only, to modern standards and load capacity. (215)

36. Proposed construction will utilize alternate existing footings, with longer spans than presently exist. (218)

37. New piers and abutments will be of reinforced concrete construction, with new prestressed concrete box-beam spans, except over the tracks, where welded steel through-plate girders will be used. (218, 219)

38. Proposed vertical clearance above the tracks is to be 22 feet 6 inches. (218)

39. No facilities of any non-carrier utility will be affected by the proposed construction (220), and no additional property will be required for construction in accordance with the plan of record. (216)

40. During the construction period, which is estimated to take 15 months, traffic should be detoured over the presently-marked detour for traffic in excess of the posted 3-Ton limit. (221, 223)

41. Estimated cost of effecting reconstruction in accordance with the plan of record was \$2,300,000 in 1979. (216)

42. The plan of record shows no provision for reconstruction of the side-ramp serving the area within the "wye" formed by the tracks. (227)

43. A present need for the side ramp exists, but is limited to, and used exclusively by, local pedestrian traffic. (157, 232)

44. Boroughs of Homewood and Big Beaver have no objection to the plan of record, per se. (225)

45. Borough of Homewood has no present responsibility for maintenance of any of the structural portions of the viaduct or side-ramp. (152)

46. Borough of Homewood is responsible for maintenance of the earth-fill portions of the side-ramp, and the wearing surface thereon; and agrees to accept responsibility for any alterations ordered thereto. (153, 154, 155)

47. Borough of Homewood also agrees to maintain the new wearing surface placed across the reconstructed viaduct. (239)

48. Pennsylvania Turnpike Commission agrees to perform and bear the costs of any repairs, restorative measures or maintenance necessary to be effected to those portions of the viaduct structure for which it has current maintenance responsibility. (146, 245)

49. Several revisions to details of the plan of record, as recommended by Pennsylvania Turnpike Commission, will improve the manner of reconstruction. (243, 244, 245)

CONCLUSIONS OF LAW

1. Borough of Homewood, Borough of Big Beaver, Penn Central Transportation Company, Consolidated Rail Corporation, Department of Transportation of the Commonwealth of Pennsylvania, Pennsylvania Turnpike Commission and County of Beaver are each "concerned" and "interested" parties to this proceeding before the Commission, within the context of Sections 2702 and 2704 of the Public Utility Code, 66 Pa. C.S. §§2702, 2704.

2. The Commission has exclusive jurisdiction over the railroad-highway crossing, above grade, and the approaches thereto, where the Homewood Viaduct carries an un-numbered public highway over and above the grade of 3 tracks of Consolidated Rail Corporation, between Borough of Big Beaver and Borough of Homewood, in Beaver County.

3. The Commission has the exclusive authority to order the construction, reconstruction, alteration, repair or protection of the subject crossing and the approaches thereto to effectuate the prevention of accidents and to promote the safety of the public.

4. The Commission has the exclusive authority to determine and order which party or parties shall perform the work required at the subject crossing and which party or parties shall maintain the subject crossing and the approaches thereto and the manner in which such work and maintenance shall be performed.

5. The Commission has the exclusive authority to assess the costs of such construction, reconstruction, repair, protection or maintenance upon the parties to this proceeding in such proper proportions as the Commission may determine.

We have carefully reviewed the entire record in this proceeding, including all testimony and exhibits presented at the hearing held September 23, 1980, as well as that previously submitted of record at all prior hearings. The extensive record developed in this matter speaks for itself, and the findings set forth herein fully support and make self-explanatory the conclusions and decisions based thereon.

We reaffirm our prior determination that near-total reconstruction of the subject viaduct structure is vitally required to provide for the safe passage of the traveling public, the convenience of rail operations, and for the future service and accommodation thereof. Conrail, despite the history of reorganizations and name changes of the carrier lines since inception of this proceeding, is clearly a concerned party at this crossing, within the meaning of Sections 2702 and 2704 of the Public Utility Code, 66 Pa. C.S. §§2702, 2704. Because Conrail owns the rail line and rail facilities at this location and enjoys the advantage of operating numerous passenger and freight trains over the tracks passing beneath the highway, we conclude that Conrail retains a significant interest in the restoration and retention of the structure in a safe condition. Further, by reason of the long-standing obligation for construction and maintenance of the structure by the involved rail carrier at this location, as determined and established by Pennsylvania Public Service Commission in its original order directing construction of the viaduct, we therefore deem it equitable that Conrail perform all work attendant to the reconstruction of this crossing, generally in accordance with the plan prepared by it (Conrail Exhibit No. 1), modified and/or revised as hereinafter directed.

We further determine that the comments and suggested revisions to Conrail's plan, as presented by Pennsylvania Turnpike Commission, in its testimony given at the hearing held September 23, 1980, are of considerable merit and should be incorporated therein, including structural beam rearrangement, uniform cross-slope of the roadway, scupper revisions, transition of roadway width, use of PennDOT standards for curbs and parapets, and protection of portions of the concrete decks.

With respect to the existing ramp structure providing pedestrian access to that portion of Homewood Borough contained within the "wye" intersection area of the tracks, we conclude that provisions should be

included on the plan for the continued accommodation of pedestrians, as deemed necessary by the borough's testimony. We are not, however, convinced that provision must be made at this time for vehicular traffic to this area, inasmuch as no evidence is of record that the lack of such vehicular access since 1954 has been of significant detriment or has posed hazard in any way to the residents of the borough.

Accordingly, we shall approve the general concept of the plan of record, as submitted by Consolidated Rail Corporation; direct that revisions thereto be made, as above-noted; direct that a revised copy thereof be served on each party of record and to this Commission for certification; and direct that construction in accordance therewith be undertaken and completed within approximately two years time.

Regarding the burden of costs for the overall project, we determine that each party hereto should bear a reasonable and equitable portion of the expenses to be incurred in effecting construction of a facility to serve the general good of the traveling public and the rail carrier.

Conrail, being the public utility now owning and operating the rail facilities beneath the structure, is clearly a concerned party before us. In view of the substantial interest and benefit which the carrier will derive from construction of this project, Conrail should properly bear a just portion of the costs of the work. The ultimate resolution of controverted rights and obligations that may exist between Conrail, its predecessors or others, under prior agreements or other arrangements of these parties, by reason of prior obligations and performance (or the lack thereof), should properly be determined in the appropriate judicial forums. Accordingly, our action herein shall be without prejudice to Conrail's possible subsequent recourse against such parties.

We further find that PennDOT, by reason of its past and presently-continuing obligation for maintenance at this location, as established under the orders at C. 1971 and A. 76051 (which orders remain in effect as originally adopted) and by reason of its responsibility for the safe passage of the traveling public over the highways and thoroughfares within this Commonwealth, whether arising from its administrative and advisory functions with respect to local roads or from its powers and duties with respect to State highways, should also bear a reasonable share of the reconstruction costs. Also in support of allocating a share of the cost to the Department of Transportation is the fact that traffic using State Highway Route 77 (Traffic Route 18) has, on several occasions, been detoured over old Route 18 and across the subject viaduct because of accidents and emergencies on the State highway.

The allocations we shall assess against PennDOT and Conrail are further justified by the alleviation of both these parties from any future maintenance obligations at this crossing location.

The costs of work required to be effected to that portion of the existing spans which are the responsibility of Pennsylvania Turnpike Commission should, rightfully, be borne by that agency, and we shall so order. Likewise, responsibility for future maintenance of those portions of the structure shall remain as at present. Further, Boroughs of Homewood and Big Beaver should each contribute to the costs of the improvement project by reason of the benefits which have evolved to its respective residents in the past, and similar additional benefits to be enjoyed in the future, by reason of the safety, convenience and accommodation provided by a separated rail-highway crossing. Pennsylvania Public Service Commission, in its 1921 order, established that County of Beaver is a major responsible party at this crossing, by reason of the substantial cost allocation assessed against it for the original construction. Because of its continuing direct interest in the well-being of the residents of the county traversing the involved highway at and in the vicinity of the crossing, we conclude that County of Beaver should also share in the expenses of the reconstruction project.

We further conclude that the reconstruction allocations to be assessed against Conrail and against PennDOT justify the exemption of both these parties from any future maintenance obligations. Because the involved highway facility serves the requirements of essentially, but not exclusively, local traffic, maintenance should properly be performed by the local governmental bodies, and we shall so order, by placing that burden upon Borough of Homewood, with the costs thereof to be shared with Borough of Big Beaver and County of Beaver; THEREFORE,

IT IS ORDERED:

1. That the existing structure locally known as the Homewood Viaduct, carrying an un-numbered public highway over and above the grade of tracks of Consolidated Rail Corporation and Pennsylvania Turnpike Commission, between the Boroughs of Homewood and Big Beaver, Beaver County, be reconstructed generally in accordance with the plan prepared by Consolidated Rail Corporation and submitted at the hearing held September 23, 1980, as its Exhibit No. 1; which plan, in general concept, is acceptable for reconstruction of the subject viaduct structure, subject to changes and modifications to be made thereto, as hereinafter set forth, prior to approval and certification by this Commission of the revised version thereof.
2. That prior to the commencement of any reconstruction work on the subject structure, and within six months of the date of entry hereof, Consolidated Rail Corporation, at its initial cost and expense, submit to each party of record to this proceeding for comment and to this Commission for approval and certification, a copy of its plan, Exhibit No. 1, revised and amended to reflect changes consistent with the recommendations made by Pennsylvania Turnpike Commission in its testimony at the hearing in this matter held September 23, 1980, as contained in notes of testimony, pages 243 through 245.

3. That the revisions and amendments to the plan shall include, in addition to the above, provision for the construction of a five-foot wide pedestrian walkway ramp off the east side of the structure to serve that portion of the borough contained within the "wye" area of the tracks; said ramp to span between an opening in the parapet at a point at or near proposed Pier No. 5 of the replacement structure, modified to provide the necessary bearing seat for said span member, and a point at or near existing Pier 14 of the present structure (as shown on original construction drawings, sheets 5 and 13), also modified as necessary to provide proper bearing for said span member. In this regard, consideration should be given to the use of a single four-foot wide prestressed box beam with cast-in-place concrete deck of sufficient width to accommodate protective parapets, railings, or fencing consistent with that provided on the main structure.

4. That Pennsylvania Turnpike Commission cooperate with Consolidated Rail Corporation in effecting the ordered revisions by furnishing such detailed information or clarification of its comments as may be requested or required by the carrier.

5. That approval of the revised plan by this Commission shall relate only to the details and methods of reconstruction, and shall except all references to the division of work, the deletion of work, or to the allocation of the costs and expenses incident thereto, which matters shall be as hereinafter delegated.

6. That subsequent to approval of the revised plan by this Commission, Consolidated Rail Corporation, at its initial cost and expense, furnish all material and do all work necessary to remove the existing crossing structure from above its tracks, and to construct in lieu thereof a new crossing structure, all within the limits shown on the approved drawings.

7. That Consolidated Rail Corporation, at its initial cost and expense, furnish all material and do all work necessary to make any temporary or permanent adjustments, alterations or modifications of its track, signals, wire lines or other facilities, required by reason of the construction of the improvement, all in accordance with the approved plans.

8. That Consolidated Rail Corporation, at its initial cost and expense and as required by reason of its bridge contractor's operations and methods, furnish and maintain watchmen and/or flagmen as may be necessary to protect its rail operations and facilities during the time the work is in progress over, under, across or adjacent to its tracks at this location; and in addition, furnish any construction inspectors and/or engineering services as required to observe the progress of the work or to ensure the safety of its rail operations and facilities which may be affected by the design and construction of the project.

9. That any relocation of, changes in or removal of any adjacent structures, equipment or other facilities of any public utility, exclusive of Consolidated Rail Corporation, as hereinabove provided, located within or beyond the limits of the improvement, which may be required as incidental to the construction of the project, be made by said public utility at its sole cost and expense, and in such manner as will not interfere with the construction of the improvement, and said relocated or changed facilities thereafter be maintained by the respective utility.

10. That Consolidated Rail Corporation, at its initial cost and expense, furnish all material and do all work necessary to effect the vacation, relocation, removal or demolition of any non-utility structures, including occupied dwellings, located upon property required for purposes of constructing the improvement.

11. That Consolidated Rail Corporation, at its initial cost and expense, and in cooperation with Department of Transportation and Boroughs of Homewood and Big Beaver, furnish all material and do all work necessary to establish, mark and maintain any temporary alternate route which may be found necessary or advisable to accommodate properly vehicular traffic during the course of the construction.

12. That Consolidated Rail Corporation, at its initial cost and expense, furnish all material and do all work necessary to complete the remainder of the railroad-highway crossing improvement project in accordance with the approved plan.

13. That all parties hereto cooperate with Consolidated Rail Corporation, so that during the construction of the project the operations and facilities of the carrier will not be endangered or unnecessarily impeded.

14. That during the time the work is underway on the project, Consolidated Rail Corporation cooperate with all other parties hereto, and conduct its operations and facilities within the vicinity of the work in a safe manner and under control.

15. That all work of constructing the improvement be completed in a manner satisfactory to this Commission on or before December 31, 1983, and that on or before said date Consolidated Rail Corporation report to this Commission the date of actual completion of all portions of the work, and at the earliest practicable time subsequent to said date of completion, submit to this Commission a detailed statement of the actual costs incurred by it in furnishing material and in performing work at this location in compliance with this order.

16. That Consolidated Rail Corporation pay any money to which it may be entitled as compensation for any of its operating right-of-way property taken, injured or destroyed by reason of construction of the crossing improvement project in accordance with this order.

17. That Boroughs of Homewood and Big Beaver, in equal shares and at its respective sole cost and expense, pay all compensation for damages, if any, due to the owners, exclusive of Consolidated Rail Corporation, as hereinabove provided, for property taken, injured or destroyed by reason of the construction of the crossing improvement project in accordance with this order.

18. That Pennsylvania Turnpike Commission pay Consolidated Rail Corporation, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to the total actual costs incurred by the carrier in furnishing material and in doing work in accordance with this order, relevant to those spans constructed by the Pennsylvania Turnpike Commission and for which it has sole maintenance responsibility; said costs to include one hundred percent (100%) of miscellaneous deck, curb, parapet and/or other concrete repairs, deck sealants and preservatives, and new wearing surface; plus fifty percent (50%) of the costs attendant to the reconstruction of Pier No. 7.

19. That Department of Transportation of the Commonwealth of Pennsylvania pay Consolidated Rail Corporation, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to forty percent (40%) of the actual costs incurred by the carrier (exclusive of those costs reimbursed to the carrier by Pennsylvania Turnpike Commission in accordance with numbered Paragraph 18, above) in furnishing material and in doing work in accordance with this order.

20. That County of Beaver pay Consolidated Rail Corporation, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to ten percent (10%) of the actual costs incurred by the carrier (exclusive of those costs reimbursed to the carrier by Pennsylvania Turnpike Commission in accordance with numbered Paragraph 18, above) in furnishing material and in doing work in accordance with this order.

21. That Borough of Homewood pay Consolidated Rail Corporation, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to Fifteen Thousand Dollars (\$15,000) to apply against the costs incurred by the carrier in furnishing material and in doing work in accordance with this order.

22. That Borough of Big Beaver pay Consolidated Rail Corporation, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to Fifteen Thousand Dollars (\$15,000) to apply against the costs incurred by the carrier in furnishing material and in doing work in accordance with this order.

23. That upon completion of the improvement and its opening to public use, Pennsylvania Turnpike Commission, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain those existing spans constructed by it and for which it currently

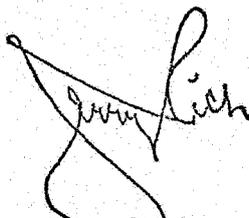
has maintenance responsibility, as altered and/or modified by reason of this order; including the reconstructed Pier No. 7, complete.

24. That upon completion of the improvement and its opening to public use, Borough of Homewood, at its initial cost and expense, furnish all material and do all work necessary thereafter to maintain the entire substructure and superstructure of the remainder of the reconstructed bridge, complete, including abutments, piers, structural beams, roadway slab, sidewalks, curbs, railings, roadway paving, pedestrian ramp, drainage system and lighting facilities (including the energization thereof), all as constructed in accordance with this order; two-thirds of all such future maintenance costs initially borne by said borough to be reimbursed to it, one-third by Borough of Big Beaver, and one-third by County of Beaver, upon proper billing for costs so incurred.

25. That upon completion of the improvement and its opening to public use, Consolidated Rail Corporation, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its tracks, signals, wire lines, and any other railroad facilities located in the vicinity of the improvement.

26. That this order, insofar as it imposes costs upon Consolidated Rail Corporation in the first instance, is without prejudice to the right of the carrier to recover all or part of said costs thus incurred from Penn Central Transportation Company, or others, in accordance with any lawful agreement between it and said other party(s).

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 5, 1982

ORDER ENTERED: MAR 17 1982