

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held October 4, 1979

Commissioners Present:

W. Wilson Goode, Chairman
Louis J. Carter
Michael Johnson

DUPLICATE RECORD.
ORIGINAL CERTIFIED
TO COMMONWEALTH COURT.

Borough of Homewood and Borough of
Big Beaver

C. 18925

v.

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

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O R D E R

BY THE COMMISSION:

By its petition filed July 16, 1979, Consolidated Rail Corporation seeks modification of numbered Paragraph 2 of the Commission's order in the subject proceeding adopted August 30, 1978 (entered September 19, 1978), so as to extend the required date for submittal of a detailed plan and cost estimate for the reconstruction of the Homewood Viaduct Structure, a 16-span steel and reinforced concrete T-beam structure carrying an unnumbered public highway above three tracks of Consolidated Rail Corporation and the Pennsylvania Turnpike, situate partly in Borough of Homewood and partly in Borough of Big Beaver, Beaver County. By that order, Consolidated Rail Corporation (Conrail) was directed to submit the required plan and estimate within six months of date of service, or on or about March 31, 1979. By its petition, Conrail seeks an approximate additional nine months within which to comply with the above-stated directives of that order, requesting an extension until December 31, 1979.

Further, the petition states that the corporation initially had invited proposals from outside consulting engineering firms for the design and plans preparation, but subsequently decided to perform those functions with its own personnel. According to the petition, preliminary design is now under way and should be completed by August 31, 1979, at which time work will be undertaken on the final design, specifications and bid documents. Conrail avers that all required documents will be completed by December 31, 1979, and requests the Commission grant it an extension of time to that date for submittal of same.

A copy of the petition has been served upon each party of record to this proceeding, and no replies have been filed with the Commission advising of any desire to be heard in this matter.

Our review of the record in this matter reveals that the Commission, by its order issued June 17, 1974, directed the then-existent railroad, Penn Central Transportation Company, Debtor, to prepare the subject reconstruction plan and cost estimate; that the Trustees refused to comply with that order; that this Commission petitioned the Interstate Commerce Commission for an order directing Penn Central to expend the funds necessary for compliance; that the involved rail line, operations and facilities were assumed by Consolidated Rail Corporation on April 1, 1976, prior to decision by the I.C.C.; that this Commission, by letter-order issued June 8, 1976, joined Conrail as a party hereto and directed it to comply with the provisions of the 1974 order; that Conrail petitioned for rehearing, contending it had never had opportunity to be heard; and that, following further hearing held June 3, 1977, this Commission issued another order, adopted August 30, 1978 (entered September 19, 1978), affirming both the June 17, 1974 order and the June 8, 1976 letter-order, setting the date for submittal of plans and estimates, by Conrail, as within six months of the date of service thereof.

While the record contains no formal reply from any party with respect to the subject petition by Conrail for extension of time, it should be noted that approximately six weeks prior to submittal of the petition a letter was received by the Commission from the solicitor for complainants expressing concern over the failure of Conrail to meet the imposed deadline for submittal of plans and suggesting that sanctions be imposed.

This proceeding was instituted on May 6, 1970, over nine years ago. Since that time, the intially-involved railroad, Penn Central Transportation Company, filed for bankruptcy, budgetary problems have beset the Pennsylvania Department of Transportation, the rail lines throughout the entire northeastern region of the country have been reorganized, and Consolidated Rail Corporation was created in an effort to reestablish the viability of rail carriers subject to widespread problems. While Conrail did object to being ordered to prepare plans and estimates without opportunity of being heard, and while it did testify to its position relative to lack of responsibility for overhead structures along the rail lines it has assumed, it should be recognized that, after proper hearing and after subsequent order affirming the prior directives, the corporation is now engaged in performance of the necessary tasks and expenditures leading toward compliance with this Commission's order. While it has failed to meet the deadline initially imposed, it has, by the petition filed July 16, 1979, affirmed its intent to comply and has formally requested an extension of time to a reasonable date (December 31, 1979), within which to meet the obligation placed upon it.

Accordingly, this Commission is of the opinion that the request for an extension of time should be granted, and we will so order. However, in light of the concerns recently expressed by the complainants and the already extensive time period which has elapsed since institution of this proceeding, we are also convinced that no further extensions of time should or will be granted for the purpose of plans preparation, of which caveat Consolidated Rail Corporation should take notice; THEREFORE,

IT IS ORDERED:

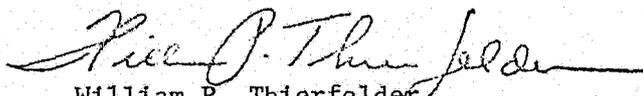
1. That numbered Paragraph 2, on Page 6 of our order in this proceeding entered September 19, 1978, which reads as follows, to wit:

"2. That our letter-order in this proceeding issued June 8, 1976 be and is hereby affirmed, with the exception that the submittal date for completed detailed construction plans shall be within six months of the date of service hereof."

be and is hereby modified to read as follows:

"2. That our letter-order in this proceeding issued June 8, 1976 be and is hereby affirmed, with the exception that the submittal date for completed detailed construction plans shall be December 31, 1979."

BY THE COMMISSION,


William P. Thierfelder
Secretary

(SEAL)

ORDER ADOPTED: October 4, 1979

ORDER ENTERED: OCT 23 1979