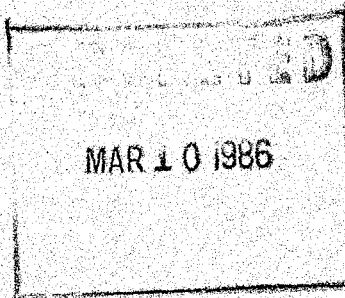


Glenfield Borough v. Consolidated Rail Corp.,
et al, C-80092154.

-NOTICE OF PETITION BY Commonwealth of
Pennsylvania, Department of Transportation,
at No. 576 C.D. 1986, Commonwealth Court of
Pennsylvania, from the order of the Commission
dated February 4, 1986 in the above captioned
proceeding.

B-863068 Filed: Mar. 06, 1986





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

March 11, 1986

IN REPLY PLEASE
REFER TO OUR FILE

C-80092154

RECEIVED

MAR 11 1986

**SECRETARY'S OFFICE
Public Utility Commission**

Jerry Rich, Secretary
Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, Pennsylvania 17120

In re: Glenfield Borough v. Consolidated
Rail Corporation, Allegheny County
and Pennsylvania Department of
Transportation

Dear Secretary Rich:

Enclosed please find the original and nine (9)
copies of Exceptions of the Staff of Pennsylvania Public
Utility Commission to Recommended Decision to be filed
in the above-captioned matter.

Sincerely,

Richard S. Herskovitz
Richard S. Herskovitz
Assistant Counsel

**DOCUMENT
FOLDER**

RSH:mej
Enclosure

CC: All Parties
Administrative Law Judge Michael A. Nemeč

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DUPLICATE RECORD.
ORIGINAL CERTIFIED
TO COMMONWEALTH COURT.

Glenfield Borough

v.

Consolidated Rail Corporation,
Allegheny County and
Pennsylvania Department
of Transportation

Docket No.
C-80092154

EXTRA COPY

EXCEPTIONS OF THE STAFF
OF PENNSYLVANIA PUBLIC UTILITY COMMISSION
TO RECOMMENDED DECISION

The Pennsylvania Public Utility Commission Trial Staff (Staff) takes exception to the Recommended Decision of the Administrative Law Judge (ALJ) in the above-captioned matter as follows:

1. Exception is taken to the failure of the ALJ to direct the Pennsylvania Department of Transportation (Department) to submit right-of-way plans for approval. Right-of-way plans are necessary to appropriate property in this proceeding as such plans show the location of the property in relation to the subject rail/highway crossing. Staff therefore requests the Commission to modify paragraph 1 of the recommended order to read as follows:

That the Pennsylvania Department of Transportation, at its initial cost and expense, within three (3) months of the date of service of the Commission's Order, submit to all

parties of record for review and to this Commission for review and approval, right-of-way plans signed by the Governor and detailed construction plans for replacement of the Glenfield Viaduct, and highway approaches thereto, generally in accordance with the preliminary engineering plans submitted as Pennsylvania Department of Transportation Exhibits 3 and 4.

2. Exception is taken to the failure of the ALJ to require recording of the right-of-way plans. Because the right-of-way plans have not been signed by the Governor and not recorded in the Allegheny County Courthouse, paragraph 2 of the recommended order should be revised to include recording of the right-of-way plans. Staff therefore requests the Commission to modify the first and last paragraphs of ordering paragraph 2 of the recommended order to read as follows:

That, in accordance with provisions of Section 2702(b) of the Public Utility Code, 66 Pa. C.S. §2702(b), the following described parcel of property be, and is hereby appropriated for the construction of the crossing in accordance with the right-of-way plans submitted to the Commission, and that this paragraph, together with a copy of the right-of-way plans signed by the Governor, be recorded with the Recorder of Deeds of Allegheny County, indexed under the name or names of the record owners of the said property, grantor, and the Commonwealth of Pennsylvania, grantee, at the sole cost and expense of the Pennsylvania Department of Transportation.

* * *

The above tract of land shown on the Borough of Glenfield's Drawings Authorizing Acquisition of Right of Way for Glenfield Viaduct,

designated and delineated as part of Parcel No. 26 on sheet 4 of said drawings, is a portion of real estate, which became legally vested in Consolidated Rail Corporation by deed of Pittsburgh, Ft. Wayne and Chicago Railways Company, dated March 21, 1976, and recorded in Deed Book Volume 6029, Page 21, in the Allegheny County Courthouse.

3. Staff excepts to the inclusion of ordering paragraph 19 in the recommended order because it conflicts with ordering paragraph 13 in that it would be unclear whether the Department must bear 100% (pursuant to paragraph 19) or 95% (pursuant to paragraph 13) of the cost of preparing detailed construction plans directed in paragraph 1. The plans to be prepared in accordance with paragraph 1 are the same plans prepared in accordance with the December 3, 1982 order. Staff is unaware of any other costs incurred by the Department in complying with the 1982 order and therefore requests the Commission to delete paragraph 19 of the recommended order to avoid any confusion as to what is the proper allocation of costs for the plans.

Respectfully submitted,

Richard S. Herskovitz
Richard S. Herskovitz
Assistant Counsel
Pennsylvania Public Utility Commission
Trial Staff

Dated: March 11, 1986

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon parties of record in this proceeding in accordance with the requirements of §1.54.

Dated this 11th day of March, 1986

Richard S. Herskovitz
Richard S. Herskovitz

Assistant Counsel for the
Pennsylvania Public Utility Commission

