

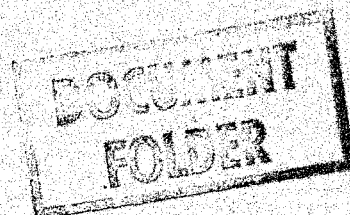


COMMONWEALTH OF PENNSYLVANIA
 PENNSYLVANIA PUBLIC UTILITY COMMISSION
 P. O. BOX 3265, HARRISBURG, Pa. 17120
 December 6, 1985

IN REPLY PLEASE
 REFER TO OUR FILE
 C-80092154

To All Parties

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



TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Recommended Decision prepared by Administrative Law Judge Michael A. Nemeec.

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.

cc:ALJ Nemeec/Office of ALJ/Bureau of S & C/Law Bureau/Mr. Bramson/OSA/Chairman/Commissioners/Correspondence/

lg
 Enclosures
 Certified Mail
 Receipt Requested

Very truly yours,
William H. Smith
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 Chief Administrative Law Judge

Similar letter to: See attached list.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Glenfield Borough :
 :
 v. : C-80092154
 :
 Consolidated Rail Corporation, :
 Allegheny County and Pennsylvania :
 Department of Transportation :

INTERIM REPORT
AND
RECOMMENDED DECISION

Before Michael A. Nemec
Administrative Law Judge

History of Proceeding

A further hearing was held in the above case on November 27, 1985. The hearing was held for the purpose of receiving the report by the Department of Transportation. The Department's report had been ordered to be completed by this Commission within fourteen months by its order entered December 13, 1982. An extension to December 1, 1984, was granted by an order entered May 17, 1984. The plans were finally filed and docketed on October 2, 1985.

At a field conference held October 15, 1985, the participants discussed and agreed that the existing 16 ton weight posting should be reduced to 3 tons based on the recommendation of a Department consultant. This Commission subsequently acted in two emergency orders to direct reposting but to allow an exception for four ton school vans. The two

EXEMPT FROM RECORD
DATE CERTIFIED
TO HEALTH COURT.

DEC 10 1985

emergency orders were ratified by Commission order entered November 18, 1985.

It is the reposting to 3 tons that has caused a serious public safety situation to arise in the Borough of Glenfield. The reposting and the reasons for it was the major matter discussed at the November 27, 1985, hearing. In order to quickly address the reposting matter I have decided to prepare this interim report. A more complete report on all testimony and issues will follow. What follows here is a brief summary of the pertinent testimony on the weight limit posting of three tons.

Brief Summary of Pertinent
Testimony

Mr. Robert E. Peda, Department of Transportation engineer, testified that the proposed new structure, to be built adjacent to the existing structure, would require 2 to 2½ years to complete. He stated the Department would need nine months to obtain the right of way, three months to advertise and award a contract followed by one to one and one half years for construction.

In the interim, the existing structure would remain in place and in use, but posted at 3 tons. The Department proposes to be responsible for all plans and construction. The project, approved under legislation popularly known as the "Bridge Bill", would be funded as follows: 80% federal, 15% state and 5% local.

As to the 3 ton posting, Mr. Peda stated that if the Department were ordered to take over maintenance of structure and to maintain a 16 ton limit, all associated costs could be eligible for federal funding.

He estimated, however, it would take several months before any strengthening of the existing structure would occur.

On cross-examination, Mr. Peda agreed that the existing structure would, in all likelihood, have to be strengthened to enable contractor equipment to reach the work site for the new structure.

Winfred Allison, engineer for Consolidated Rail Corporation, disagreed that the reduction in the weight posting was necessary. However, on cross-examination, he agreed that a further study should be done. He estimated that Conrail would need about a much time as the Department to strengthen the existing structure.

Mr. John Menhart, President of the Glenfield Borough Council, testified that the 3 ton posting caused serious problems for the Borough. Regular school buses can no longer be used. The Borough's fire station is on the river side of the subject structure to reach the remainder of the Borough necessitates using the subject structure which the present posting precludes. More importantly, the existing fire fighting equipment is antiquated and inadequate to meet potential developments. However, equipment from neighboring communities are precluded from using the viaduct under the current posting.

Mr. Menhart pointed out that the expanded route 65 project consumed 15 percent of Glenfield Borough while the Interstate 79 project consumed an enormous 45% of the area and tax base of the community. With the reduced weight posting on the Borough's sole means of access vital services and two businesses are threatened. He stated that a ten ton posting would permit normal services to resume but would not satisfy the

needs of the two businesses.

Mr. Edward Steinhawzer, the owner and operator of a marina on the Ohio River in Glenfield testified that his business was shut down by the 3 ton posting. Boats can not legally be trailered in or out of Glenfield. His business is the sole source of fuel for boaters on an extensive stretch of the Ohio, but he can not receive any more supplies because of the posting. Finally, he felt that the fire protection equipment in Glenfield was inadequate to deal with fire emergency at his business.

State Representative David Mayernick urged that action be taken promptly to resolve the problem. He recounted that the other Glenfield business, American Industrial Contracting, was also put out of business by the weight limit posting.

Discussion

The present situation in Glenfield is a direct result of two Department of Transportation projects which have reduced the size of the Borough by 60 percent. Further, the two projects, Route 65 and I-79, reduced the access to part of the Borough to one viaduct, which even then was deteriorating. The situation is one easily foreseen. Further the Department has not been prompt in complying with prior orders of this Commission directing studies of the subject structure. I conclude and recommend that this Commission find that the Department is directly responsible for the current situation in Glenfield Borough.

The testimony at the November 27, 1985, hearing is sufficient to find that the safety of the residents of Glenfield is threatened by the

present condition of the Glenfield viaduct. Further, the economic viability of the community is likewise threatened.

For the above reasons I recommend that this Commission order that the Department of Transportation immediately evaluate the subject structure for renovation to a 16 ton weight limit and, if economically feasible, make all necessary repairs. As part of my recommendation maintenance of the entire structure should immediately be assigned to the Department, both for inspections and any necessary repairs. Doing so will permit the costs of any repairs or strengthening of the existing structure to be included in the total project costs.

Proposed Findings of Fact

1. The present three ton weight limitation on the Glenfield viaduct prohibits the use of the structure by fire, emergency and normal service vehicles.
2. The 3' ton weight posting of the Glenfield viaduct effectively precludes the two existing commercial establishments from conducting business.
3. Replacement of the existing viaduct will not occur for at least two to two and one-half years.
4. The residents and businesses of Glenfield can not tolerate safely a wait of 2 to 2½ years to gain a means of safe ingress and egress.

Proposed Conclusions of Law

1. This Commission has jurisdiction over the subject matter of and parties to this proceeding under Section 2702(f) of the Public Utility

Code, 66 Pa. C.S.A. § 2702(f).

2. The three ton weight limit creates an immediate danger to the safety and welfare to the public at the Glenfield viaduct.

Proposed Order

In consideration of the foregoing it is ordered that:

1. The Pennsylvania Department of Transportation is assigned maintenance responsibility for the Glenfield viaduct.

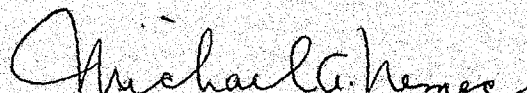
2. The Department shall immediately commence an evaluation of the Glenfield viaduct for the purposes of repairing and/or strengthening the structure to carry loads equivalent to a 16 ton limit until the new proposed structure can be completed.

3. The evaluation directed in paragraph 2 above shall be completed and filed with this Commission within 30 days after this order is entered.

4. Upon completion of the above directed evaluation, the Department shall at its initial expense take all feasible steps to repair and strengthen the Glenfield viaduct with the goal being the achieving of an adequate load carrying ability to serve the needs of the residents of the Borough of Glenfield.

5. The Department shall file weekly reports with this Commission detailing its compliance with this order.

December 2, 1985


Michael A. Nemec
Administrative Law Judge