

ORIGINAL

DEPARTMENT OF LAW

County of Allegheny

919 JONES LAW ANNEX BUILDING
PITTSBURGH, PA. 15219
TELEPHONE: 355-5340

APR 30 12 13 PM '81
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SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION



JAMES H. McLEAN
COUNTY SOLICITOR

April 27, 1981

Commonwealth of Pennsylvania
Pennsylvania Public Utility
Commission
P. O. Box 3265
Harrisburgh, PA 17120

RE: C-80092154, Borough of Glenfield vs. Consolidated Rail Corporation, Penn Central Transportation Company, Allegheny County and Pennsylvania Department of Transportation

Dear Mr. Thierfelder:

Enclosed herewith is the original and fourteen (14) copies of the Exceptions of Allegheny County to the proposed initial decision prepared by Administrative Law Judge Michael A. Nemec. By copy of this letter, I am serving copies of the exceptions on the parties of record.

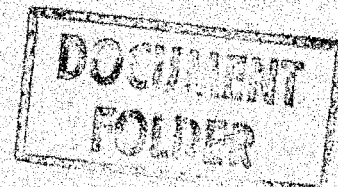
Very truly yours,

Sheldon L. Keyser
Sheldon L. Keyser
Assistant County Solicitor

SLK:ams

Enclosures: w/copies

Albert G. Feczko, Jr.,
Joel E. Mazor
Carl Helmetag, Jr.
Ward T. Williams
James H. McLean
Colonel Daniel F. Dunn



DUPLICATE RECORD.
ORIGINAL CERTIFIED
TO COMMONWEALTH COURT.

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COMMISSION

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

THE BOROUGH OF GLENFIELD)

vs.)

) Docket No. C-80092154

)
)
) CONSOLIDATED RAIL CORPORATION,
) PENN CENTRAL TRANSPORTATION COMPANY
) ALLEGHENY COUNTY and PENNSYLVANIA
) DEPARTMENT OF TRANSPORTATION)

EXCEPTIONS
OF
ALLEGHENY COUNTY

APR 30 1981
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TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

1. The name and address of party taking these exceptions is Allegheny County, 119 Courthouse, Pittsburgh, Pennsylvania 15219.
2. The names and address of its Attorneys are James H. McLean, County Solicitor and Sheldon L. Keyser, Assistant County Solicitor, 919 Jones Law Annex Building, Pittsburgh, Pennsylvania 15219.
3. On or about April 15, 1981 a proposed initial decision in the above-captioned matter was prepared by Administrative Law Judge Michael A. Nemec.
4. Paragraphs 1 through 3 of the Recommended Order attached to the proposed initial decision by Judge Nemec places joint responsibility on the County and Conrail for the performance and initial expense of certain engineering evaluations and inspections

of the subject structure.

5. The County takes exceptions to its inclusion in the duties to be performed in paragraphs 1 through 3 of the Recommended Order.

6. The testimony at the hearing establishes that the subject structure was built by the Pennsylvania Railroad Company, predecessor to the Consolidated Rail Corporation, in 1925.

7. Pursuant to this Commission's Order issued August 10, 1953 the Department of Highways predecessor to the Department of Transportation, was ordered to modify the original structure to accommodate legislative Route 65 known as Ohio River Boulevard. On April 16, 1973 the Department of Highways was further ordered, by this Commission to alter the subject structure to accommodate the construction of ramps for legislative Route 1016, Inter-state 79.

8. Maintenance responsibility for the subject structure was placed by this Commission upon the Pennsylvania Railroad and the Department of Highways. The present deteriorated condition of the subject structure is the responsibility of one or both of the afore-mentioned parties charged with said maintenance in that either one or both failed to adequately maintain the structure.

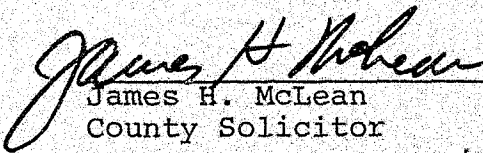
9. The testimony at the hearing further establishes that the County has never had any responsibility for construction, reconstruction or maintenance of said bridge nor has the County ever undertaken, assumed or performed any of said responsibilities.

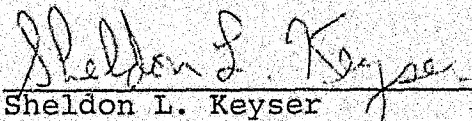
10. The testimony at the hearing clearly establishes that the Glenfield Bridge exclusively provides access and serves the Borough of Glenfield and in no way is involved in or assists in the intra-County movement of traffic.

11. It is clear from the testimony taken as a whole that the County of Allegheny is the only party to this action which has no involvement in or contact with the subject structure.

WHEREFORE, Allegheny County requests that the Commission adopt an Order removing the County of Allegheny as a responsible party in paragraph 1 through 3 of the Recommended Order.

COUNTY OF ALLEGHENY


James H. McLean
County Solicitor


Sheldon L. Keyser
Assistant County Solicitor

CONRAIL

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PUBLIC UTILITY
COMMISSION

April 27, 1981

William P. Thierfelder, Esq.
Secretary
Pennsylvania Public Utility Commission
Box 3265
Harrisburg, Pa. 17120

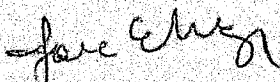
Re: C. 80092154, Allegheny County

Dear Sir:

I enclose for filing on behalf of Consolidated Rail Corporation original and 14 copies of its Exceptions to the Recommended Decision filed by the Administrative Law Judge in the captioned case.

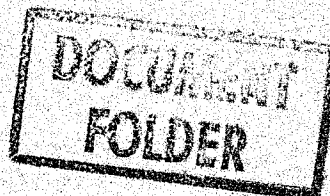
I hereby certify I have served copies of these exceptions upon the Administrative Law Judge and upon all parties of record.

Very truly yours,



Joel E. Mazor
General Attorney

JEM:CV
Encl.



ORIGINAL

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

APR 29 10 10 AM '81

Glenfield Borough :
v. :
Consolidated Rail Corporation, :
Penn Central Transportation :
Company, Allegheny County and :
Pennsylvania Department of :
Transportation :

Complaint Docket
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SECRETARIES OFFICE
PUBLIC UTILITY
COMMISSION

No. 8009

2154
**DUPLICATE RECORD.
ORIGINAL CERTIFIED
TO COMMONWEALTH COURT.**

EXCEPTIONS OF
CONSOLIDATED RAIL CORPORATION

COMES NOW, Consolidated Rail Corporation by its attorney Joel E. Mazor and takes exceptions to the Recommended Decision filed by the Administrative Law Judge in the captioned case as follows:

1. Exception is taken to Paragraphs 1, 2 and 3 of the proposed order, which require the County of Allegheny and Consolidated Rail Corporation jointly, and at their initial expense, to perform an engineering evaluation for the purpose of completing a structure inventory and appraisal sheet, and for the further purpose of evaluating the structure for rehabilitation or replacement, and for performing safety inspections at intervals of not less than six months.

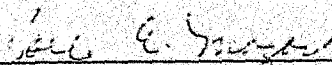
We point out, as we did in a similar case involving the City of Johnstown, that joint preparation of plans by two parties to a proceeding is impractical. The Commission

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ultimately in its order sustained this exception and placed the burden of plan preparation in that case upon the City of Johnstown. We similarly urge that in this case the County of Allegheny be required at its initial cost and expense to perform all functions recommended to be performed by the Administrative Law Judge in Paragraphs 1, 2 and 3 of his Recommended Order. Consolidated Rail Corporation's bridge forces are engaged in many projects, not only throughout this state, but throughout its entire system, and placing the obligation to prepare the plans and make the inspections as required here, would place an undue burden on its manpower and on its already strained financial resources.

Respectfully submitted,



Joel E. Mazor
1138 Six Penn Center
Philadelphia, Pa. 19104

Attorney for
Consolidated Rail Corporation



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

C-80092154

April 30, 1981

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PUBLIC UTILITY
COMMISSION
REFER TO OUR FILE
C-80092154

William P. Thierfelder, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17120

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

Dear Secretary Thierfelder:

Enclosed please find the original and nine (9) copies of the Exceptions of the Staff to Initial Decision to be filed in the above matter.

Very truly yours,

Barry J. Grossman
by RSH
Barry J. Grossman
Assistant Counsel

BJG:ss

cc: All Parties
Administrative Law Judge Michael A. Nemecek
Donald R. Fleisher, P.E., Bureau of Rail Transportation

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BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

APR 30 3 24 PM '81

SECRETARIES OFFICE
PUBLIC UTILITY
COMMISSION

Glenfield Borough	:	
v.	:	
Consolidated Rail Corporation,	:	Complaint Docket
Penn Central Transportation	:	
Company, Allegheny County and	:	No. 80092154
Pennsylvania Department of	:	
Transportation	:	

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

The Pennsylvania Public Utility Commission Staff (hereinafter, Staff) takes exception to the proposed Initial Decision of the Administrative Law Judge in the captioned matter as follows:

1. Exception is taken to paragraph 3 of the recommended order wherein the County and Conrail are directed to perform joint inspections of the bridge at intervals of not less than six months. Under this time direction, joint inspections may be performed anytime after six months from the date of the order; 1 year, 2 years or 3 years later. The effect of this paragraph is to leave it to the discretion of the parties as to when to perform the inspections. Staff believes the word "less" was inserted erroneously. Furthermore, the testimony indicates that joint inspections should be performed at least every six months. Staff there-

fore requests that the Commission modify paragraph 3 of the recommended order by directing the joint inspections at intervals of not more than six months.

Respectfully submitted,

Staff of Pennsylvania
Public Utility Commission

BY: Barry J. Grossman
Barry J. Grossman *by RST*
Assistant Counsel

DATE: April 30, 1981

CERTIFICATE OF SERVICE

I hereby certify that I am this 30th day of April, 1981, serving by first class mail the foregoing document upon the persons listed below:

Albert G. Feczko, Jr., Solicitor
Glenfield Borough
800 Lawyers Building
Pittsburgh, PA 15219

Joel E. Mazor, Commerce Counsel
Consolidated Rail Corporation
1138 Six Penn Center Plaza
Philadelphia, PA 19104

Carl Helmetag, Jr., General Counsel-Litigation
Penn Central Corporation
Suite 3100 - IVB Building
1700 Market Street
Philadelphia, PA 19103

Ward T. Williams, Chief Counsel
Pennsylvania Department of Transportation
521 Transportation & Safety Building
Harrisburg, PA 17120

Sheldon L. Keyser, Esquire
County of Allegheny
9th Floor Jones Law Annex
Pittsburgh, PA 15219

Administrative Law Judge Michael A. Nemeo
Pennsylvania Public Utility Commission
Third Floor, Buhl Building
204 Fifth Avenue
Pittsburgh, PA 15222

Barry J. Grossman
Barry J. Grossman by RSH
Assistant Counsel