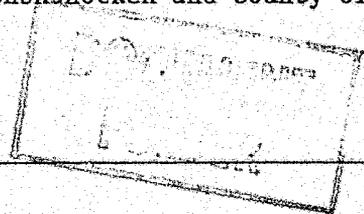
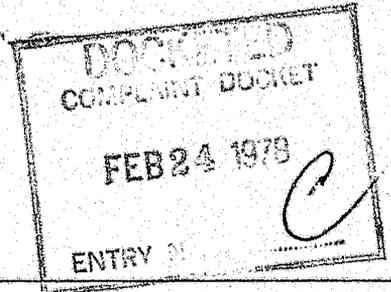


Uniform Cover and Calendar
(List attachments on back)

1. <u>DOCKET NO.</u>	: C. 19707 ✓	2. <u>BUREAU AGENDA NO.</u>	:
3. <u>REPORT DATE:</u>	: January 24, 1978	4. <u>BUREAU:</u>	: Chmn & Commissioners
5. <u>PUBLIC MEETING DATE:</u>	: February 15, 1978	6. <u>SECTION(S):</u>	: Office of Special Assistants
7. <u>APPROVED BY:</u>	: J. Klovekorn	7. <u>APPROVED BY:</u>	: J. Klovekorn
	: <u>DIRECTOR</u>		: <u>SECN SUPV(S)</u>
8. <u>MONITOR:</u>	: Comm. O'Bannon	9. <u>PERSON IN CHARGE:</u>	: J. J. Klovekorn
10. <u>CAPTION (abbreviated)</u>	: Staff Appeal from the Interim Order of October 17, 1977 in the Matter of Department of Transportation of the Commonwealth of Pennsylvania v. Reading Company, Borough of Conshohocken, Borough of West Conshohocken and County of Montgomery (Matsonford Bridge).		
11. <u>PUBLIC RECORD</u>	:	12. <u>CASE NO.</u>	:
<u>INVESTIGATION</u>	:		:
<u>INTERNAL ADVICE</u>	:		:
13. <u>MINUTE (include short summary of facts, issue and recommendation)</u>	: This Office recommends that the Commission deny as moot, State's interlocutory appeal from the Administrative Law Judge's interim order allowing into the record the deposition of PennDOT's witness.		
14. <u>MOTION BY:</u>	Commissioner Bloom	Commissioner Chm. Carter	- Yes
		Commissioner Johnson	- Yes
<u>SECONDED:</u>	Commissioner O'Bannon	Commissioner	
<u>CONTENT OF MOTION:</u>	: Staff recommendation adopted.		
15. <u>DISSENTING OPINION(S) BY:</u>			
<u>CONCURRING OPINION(S) BY:</u>			



February 23, 1978

C. 19707

Robert W. Cunliffe, Deputy
Attorney General
Room 200, Capitol Associates Building
Seventh & Forster Streets
Harrisburg, Pennsylvania 17120

Department of Transportation of the Commonwealth
of Pennsylvania

v.

Reading Company, Debtor, Borough of Conshohocken,
Borough of West Conshohocken and County of Montgomery

Dear Sir:

Enclosed herewith are executed and three (3) copies
of order issued by the Commission on February 15, 1978,
in the above entitled proceeding.

Kindly acknowledge receipt in behalf thereof, using
for that purpose the enclosed form.

Very truly yours,

C. J. McElwee
Secretary

fac

Encls.

Bureau of Transportation
Law Bureau

Copy of Order to: See attached list.

DUPLICATE RECORD!
ORIGINAL CERTIFIED
TO COMMONWEALTH COURT.

DOCUMENT
FOLDER

Joel E. Mazor, General Attorney (Executed)
Consolidated Rail Corporation
Room 1404, Six Penn Center Plaza
Philadelphia, PA 19104

Edward F. Kane, Esquire (Executed)
Kane, Pugh, Anderson, Subers & McBrien
512 Swede Street
Norristown, PA 19401
(for Borough of West Conshohocken)

Walter Phipps, Jr., Solicitor (Executed)
Borough of Conshohocken
321 Fayette Street
Conshohocken, PA 19428

Sheldon Seligsohn, Attorney
The Bell Telephone Company of Pennsylvania
One Parkway
Philadelphia, PA 19102

James M. Ballengee, President
Philadelphia Suburban Water Company
762 Lancaster Avenue
Bryn Mawr, PA 19010

Roger B. Reynold, Solicitor (Executed)
County of Montgomery
Courthouse
Norristown, PA 19404

Lockwood W. Fogg, Secretary
Trustees of Reading Company
One Plymouth Meeting
Plymouth Meeting, PA 19462

Candace N. Kreiger, Assistant Counsel
P.U.C. - Law Bureau
P. O. Box 3265
Harrisburg, PA 17120

Mr. John L. Storch
P.U.C. - Bureau of Transportation, Rail Division
P. O. Box 3265
Harrisburg, PA 17120

Rudolph S. Pallastrone, Esquire
P.U.C., 1306 State Office Building
Broad & Spring Garden Streets
Philadelphia, PA 19130

Chief ALJ Shane
Bruce Bigelow, Office of ALJ

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Public Meeting held February 15, 1978
Harrisburg, PA 17120

Commissioners Present:

Louis J. Carter, Chairman
Robert K. Bloom
Helen B. O'Bannon
Michael Johnson

Department of Transportation of the
Commonwealth of Pennsylvania

Complaint Docket
No. 19707

v.

Reading Company, Debtor, Borough of
Conshohocken, Borough of West
Conshohocken and County of Montgomery

O R D E R

BY THE COMMISSION:

On December 16, 1977 the Pennsylvania Department of Transportation (PennDOT) filed a petition requesting modification of an order issued October 21, 1975 in this proceeding. That Order had directed PennDOT to prepare and submit within twelve months plans for the reconstruction of the Matsonford Bridge, located in the Borough of West Conshohocken (Montgomery County). PennDOT sought an additional twelve months to comply. The Commission directed that a hearing be held on the request. This hearing took place on March 10, 1977, before Administrative Law Judge Rudolph S. Pallastrone.

On June 17, 1977 PennDOT filed a letter-petition with the Administrative Law Judge requesting the admission into evidence of the deposition of Mr. James Vovakes, its Director of the Bureau of Fiscal Management. Staff opposed this request by answer filed June 28, 1977.

On October 12, 1977, Judge Pallastrone's initial decision recommending denial of PennDOT's petition for modification was issued. On October 17, 1977 a short-form interim Order was issued admitting the Vovakes deposition into evidence. Staff filed exceptions to the interim order on November 17, 1977.

On November 22, 1977 the Commission approved the initial decision of Judge Pallastrone and denied PennDOT's request. In view of our determination here, any consideration of staff's objection to the admission of the Vovakes deposition into evidence would be moot; THEREFORE,

DUPLICATE RECORD.
ORIGINAL CERTIFIED
TO COMMONWEALTH COURT.

IT IS ORDERED: That the Exceptions filed by Staff on November 17, 1977 to the Interim Order of Administrative Law Judge Pallastrone are denied as moot.

BY THE COMMISSION,

C. J. McElwee
Secretary

(SEAL)

ORDER ADOPTED: February 15, 1978

ORDER ENTERED: **FEB 23 1978**

Uniform Cover and Calendar
(List attachments on back)

1. <u>DOCKET NO.</u>	C. 19707 ✓	:	2. <u>BUREAU AGENDA NO.</u>
3. <u>REPORT DATE:</u>	March 15, 1978	:	MAR-78-OSA-20*
4. <u>BUREAU:</u>	Chmn & Comms.	:	5. <u>PUBLIC MEETING DATE:</u>
6. <u>SECTION(S):</u>	Off. of Spec. Assis.	:	March 21, 1978
7. <u>APPROVED BY:</u>		:	
<u>DIRECTOR</u>	J.J. Klovekorn	:	
<u>SECN SUPV(S)</u>		:	
8. <u>MONITOR:</u>		:	
	Comm. O'Bannon	:	
9. <u>PERSON IN CHARGE:</u>		:	
	J.J. Klovekorn	:	
10. <u>CAPTION (abbreviated)</u>	Department of Transportation v. Reading Co. (Matsonford Bridge) Application for Supersedeas		
11. <u>PUBLIC RECORD</u>	:		
<u>INVESTIGATION</u>	:		
<u>INTERNAL ADVICE</u>	:	12. <u>CASE NO.</u>	
13. <u>MINUTE (include short summary of facts, issue and recommendation)</u>	The Office recommends that the Commission enter an Order denying the Application for Stay or Supersedeas filed on March 8, 1978 in this proceeding by the Department of Transportation of the Commonwealth of Pennsylvania.		
14. <u>MOTION BY:</u>	Commissioner Bloom		Commissioner Chm. Carter - Yes Commissioner Johnson - Yes
<u>SECONDED:</u>	Commissioner O'Bannon		Commissioner Goode - Yes
<u>CONTENT OF MOTION:</u> Staff recommendation adopted.			
15. <u>DISSENTING OPINION(S) BY:</u>			
<u>CONCURRING OPINION(S) BY:</u>			

**DOCUMENT
FOLDER**

**DOCKETED
COMPLAINT DOCKET**

APR 4 1978

ENTRY No.

March 6, 1978

SUBJECT: B-78022492
Complaint Docket No. 19707

TO: Secretary McElwee

FROM: Betty R. Jones

In re: Petition of Department of Transportation
No. 212 C. D. 1978
Commonwealth Court of Pennsylvania

It is the intention of the Law Bureau to certify the record in the above captioned case to the Commonwealth Court of Pennsylvania. Please forward a complete set of the original file for certification. We will assume the Secretary's office has a complete second file.

BRJ

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
HARRISBURG 17120
Office of Chief Counsel



March 7, 1978

IN REPLY REFER TO

C. J. McElwee, Secretary
Pennsylvania Public Utility Commission
North Office Building
Harrisburg, Pennsylvania 17120

RECEIVED

MAR 8 1978

SECRETARY'S OFFICE
PUBLIC UTILITY COMMISSION

Re: Complaint Docket No. 19707
Montgomery County

Dear Mr. McElwee:

Enclosed for filing with the Commission are the original and two (2) copies of Application for Stay or Supersedeas on behalf of the Pennsylvania Department of Transportation.

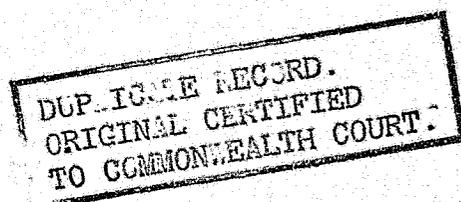
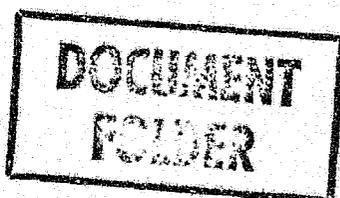
I hereby certify that a copy of said Application has been sent to all parties of record.

Very truly yours,

George D. Wenick
Assistant Attorney General

220/GDW:rmm
Enclosures

cc: K. W. Walker, P.E., Chief Utility Engineer
District #6-0
Parties of Record - Page 2



Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

MAR 8 1978

SECRETARY'S OFFICE
PUBLIC UTILITY COMMISSION

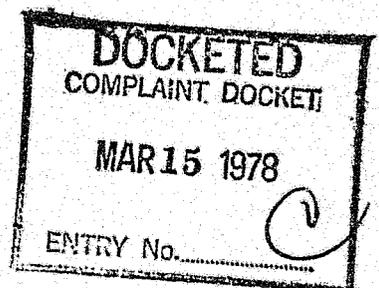
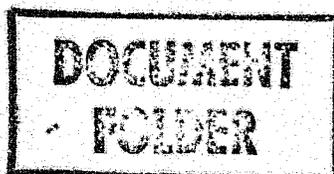
Department of Transportation of the :
Commonwealth of Pennsylvania : COMPLAINT
vs. : DOCKET
Reading Company, Borough of Conshohocken, : NO. 19707
Borough of West Conshohocken and County :
of Montgomery :

APPLICATION FOR STAY OR SUPERSEDEAS

TO THE HONORABLE, THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

The Department of Transportation of the Commonwealth of Pennsylvania, by its attorneys, applies for stay or supersedeas as follows:

1. That the name and address of your Petitioner is the Department of Transportation of the Commonwealth of Pennsylvania (PennDOT), Harrisburg, Pennsylvania 17120.
2. That the names and address of the attorneys for the Petitioner are George D. Wenick, Assistant Attorney General and Herbert G. Zahn, Assistant Attorney General, Office of Chief Counsel, Pennsylvania Department of Transportation, Harrisburg, Pennsylvania 17120.
3. That in the above-captioned proceeding on October 24, 1975, the Commission entered an Order which in Paragraph 3 directed as follows:



"3. That within twelve months of the date of service hereof, Department of Transportation of the Commonwealth of Pennsylvania, at its initial cost and expense, prepare and submit to this Commission and to each party of record hereto, a detail construction plan and estimate of costs providing for the reconstruction of the existing Matsonford Bridge structure carrying State Highway Route 46140 over and above the grade of tracks of Reading Company at two locations and across the Schuylkill River, between Borough of Conshohocken and Borough of West Conshohocken, in Montgomery County, including such reconstruction as is required to be performed on the highway approaches and contiguous ramps to the bridge; said estimate of cost to include all costs incurred to date by the department in accordance with the subject proceeding."

4. That on December 30, 1976, PennDOT petitioned to modify the Commission's Order of October 24, 1975, so that Paragraph 3 would read:

"3. That within twelve (12) months from the date of approval by the Legislature of Pennsylvania of a Capital Budget providing for funds for the design of the bridge structure, the subject matter of these proceedings, the Department of Transportation of the Commonwealth of Pennsylvania, at its initial cost and expense, prepare and submit to this Commission and to each party of record hereto a detailed construction plan and estimate of costs providing for the reconstruction of the existing Matsonford Bridge structure carrying State Highway Route 46140 over and above the grade of tracks of Reading Company at two locations and across the Schuylkill River, between Borough of Conshohocken and Borough of West Conshohocken, in Montgomery County, including such reconstruction as is required to be performed on the highway approaches

and contiguous ramps to the bridge; said estimate of cost to include all costs incurred to date by the department in accordance with the subject proceeding."

5. That on March 10, 1977, hearing on PennDOT's Petition for Modification was held.

6. That Administrative Law Judge Pallastrone issued a proposed order which was adopted by the Commission on November 22, 1977, and which directed PennDOT in Paragraphs Nos. 2 and 4 as follows:

"2. That within six (6) months from the approval of this Order by the Commission, PennDOT shall submit to the Commission detailed plans and estimates of costs for the reconstruction of the Matsonford Bridge.

4. That every thirty (30) days from the effective date of this Order, PennDOT shall submit to the Public Utility Commission a memorandum detailing the status of the plans and cost estimates. Failure to commence the Engineering and/or the failure to submit to the above mentioned reports, will constitute a violation of this Order and the Commission will direct the legal staff to institute appropriate legal proceedings for the compliance of this Order."

7. That on February 8, 1978, PennDOT filed an Appeal No. 212 of 1978 with Commonwealth Court alleging jurisdiction under Section 403 of the Act of July 31, 1970 (P.L. 673, No. 223), known as the Appellate Court Jurisdiction Act of 1970 (70 P.S. §211.403).

8. That the Commission Order of November 22, 1977, could be enforced during the time that the Appeal is being taken by PennDOT, and that such enforcement would defeat the object for which PennDOT is taking the Appeal.

9. That no harm to the traveling public would result from granting a supersedeas as requested because such supersedeas would leave intact Paragraphs 4 and 5 of the October 24, 1975 Order which provided as follows:

"4. That during the time the plan and estimate of costs are being prepared, Department of Transportation undertake the continuing program of inspection of the subject structure, at six month intervals, to determine the current condition thereof; and submit in writing to this Commission a report indicating its findings and recommendations resulting from each such inspection performed.

5. That during the time the plan and estimate of costs are being prepared, and until such time as further order by this Commission may issue to alter same, Department of Transportation, at its initial cost and expense, make appropriate repairs to any component or element of the subject structure, deemed necessary in the opinion of the department's bridge engineer, so as to properly provide for the safety of the traveling public utilizing the facility; the costs thereof to be submitted at future hearing for consideration by this Commission with respect to allocation thereof."

WHEREFORE, PennDOT respectfully requests your Honorable Commission to grant a stay or supersedeas of Paragraphs 2 and 4 of the proposed Order of Administrative Law Judge Pallastrone as adopted by the Commission on November 18, 1977, until the Commonwealth Court has ruled on PennDOT's Appeal at C.D. No. 212 of 1978.

Respectfully submitted,

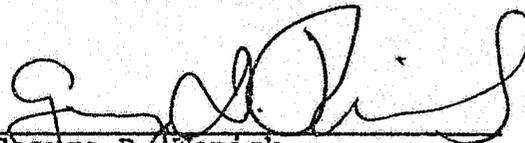


George D. Wenick
Assistant Attorney General

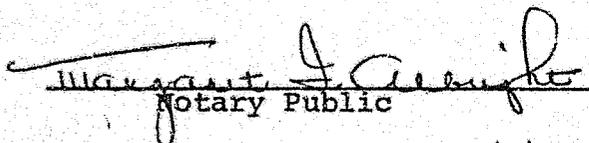
Herbert G. Zahn
Assistant Attorney General

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF DAUPHIN :

Before me the undersigned, personally appeared,
George D. Wenick, Assistant Attorney General of the Department
of Transportation of the Commonwealth of Pennsylvania, who,
being duly sworn according to law, deposes and says that the
foregoing facts are true and correct, to the best of his
knowledge and belief.


George D. Wenick
Assistant Attorney General

Sworn and subscribed before me
this 7th day of March, 1978


Margaret J. Knight
Notary Public

My Commission Expires: 2/1/80

Commissioner O'Bannon

March 13, 1978

C. 19707

George D. Wenick
Assistant Attorney General
Pennsylvania Department of Transportation
Office of Chief Counsel
Harrisburg, Pennsylvania 17120

Department of Transportation of the Commonwealth
of Pennsylvania

v.

Reading Company, Debtor, Borough of Conshohocken,
Borough of West Conshohocken and County of Montgomery

Dear Mr. Wenick:

Receipt is acknowledged of your letter dated March 7, 1978, enclosing an original and two copies of an application filed on behalf of Pennsylvania Department of Transportation for stay or supersedeas in the above entitled proceeding.

We note your statement that copies have been served upon all parties of record.

The application will receive the Commission's attention, and you will be further advised.

Very truly yours,

for C. J. McElvae
Secretary

DUPLICATE RECORDED.
ORIGINAL CERTIFIED
TO COMMONWEALTH COURT.

DOCUMENT
FOLDER