

1. <u>REPORT DATE:</u>	:	2. <u>BUREAU AGENDA NO.</u>
January 30, 1986	:	
3. <u>BUREAU:</u>	:	FEB-86-OSA-12*
Office of Special Assistants	:	
4. <u>SECTION(S):</u>	:	5. <u>PUBLIC MEETING DATE:</u>
	:	
6. <u>APPROVED BY:</u>	:	
<i>CWD</i>	:	
Director: Cheryl Walker Davis	:	February 6, 1986
Supervisor:	:	
7. <u>MONITOR:</u>	:	
	:	
8. <u>PERSON IN CHARGE:</u>	:	
J. McNulty	:	
9. <u>DOCKET NO:</u>	:	
C-00019707	:	

10. (a) CAPTION (abbreviate if more than 4 lines)
 (b) Short summary of history & facts, documents & briefs
 (c) Recommendation
- (a) Pennsylvania Department of Transportation v. Consolidated Rail Corporation, et al.
- (b) By Opinion and Order, entered December 4, 1985, the Commission adopted, as amended and modified, ALJ Joseph J. Klovekorn's Recommended Decision in the above captioned proceeding. The Commission adopted ALJ Klovekorn's recommendation that Bell Telephone Co. of PA (Bell) pay 100% of cost of relocating its facilities and that Philadelphia Electric Co. (PECO) pay 100% of the costs of relocating certain of its facilities; Bell and PECO have filed Petitions for Reconsideration of the Commission's Opinion and Order, objecting to bearing 100% of the relocation costs.
- (c) The Office of Special Assistants recommends that the Commission adopt a proposed Opinion and Order denying both Petitions.

SECRET

11. MOTION BY: CommissionerChm. Taliaferro Commissioner Shane - Yes
 Commissioner
 SECONDED: CommissionerFischl Commissioner

CONTENT OF MOTION: Staff recommendation adopted.

DOCKETED
 FEB 25 1986



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

February 7, 1986

IN REPLY PLEASE
REFER TO OUR FILE

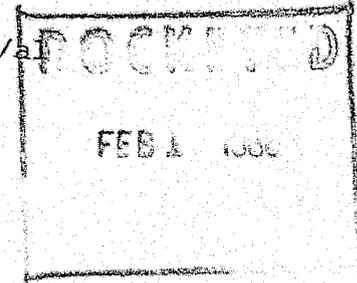
C-00019707

To All Parties of Record

Department of Transportation of the
Commonwealth of Pennsylvania

v.

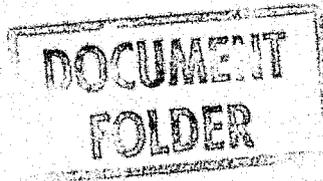
Consolidated Rail Corporation, et/al



To Whom It May Concern:

This is to advise you that the Commission at Public Meeting held February 6, 1986 adopted an Opinion and Order in connection with the above entitled proceeding.

A copy of the Opinion and Order is enclosed for your records.



Very truly yours,

Jerry Rich, Secretary

JZ
Encls.
Certified Mail
Receipt Requested

Law Bureau
Office of Special Assistants

Copy of Opinion and Order to all parties--See letter dated
January 9, 1986 from PennDot

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held February 6, 1986

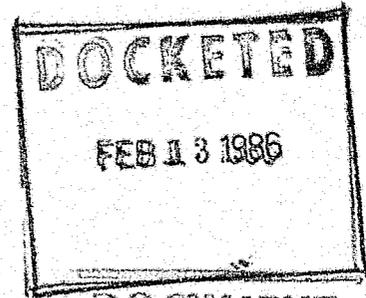
Commissioners Present:

Linda C. Taliaferro, Chairman
Frank Fischl
Bill Shane

Department of Transportation of
the Commonwealth of Pennsylvania
v.

Consolidated Rail Corporation,
Southeastern Pennsylvania Trans-
portation Authority, Upper Merion
and Plymouth Railroad Company,
Boroughs of Conshohocken and West
Conshohocken, Plymouth Township,
Montgomery County, The Bell Tele-
phone Company of Pennsylvania,
Philadelphia Suburban Water
Company, and Philadelphia Elec-
tric Company

C-00019707



DOCUMENT
FOLDER

OPINION AND ORDER

BY THE COMMISSION:

Before us for disposition are Petitions for Recon-
sideration, filed by The Bell Telephone Company of Pennsyl-
vania (Bell) on December 19, 1985, and the Philadelphia
Electric Company (PECO) on December 23, 1985, in the above-
captioned proceeding.

Both Petitions seek reconsideration of our Opinion
and Order, adopted July 11, 1985, and entered December 4,
1985, whereby we adopted, with amendment and modification,
Administrative Law Judge (ALJ) Joseph J. Klovekorn's Recom-
mended Decision, which assigned work, allocated costs, and
assigned maintenance in this proceeding. Specifically, Bell
objects to having to bear 100% of its relocation costs, and
PECO objects to having to bear 100% of the relocation costs
of its facilities which were situated in the public right-
of-way.

The general authority enabling this Commission to
entertain petitions for reconsideration, subsequent to a
Commission Opinion and Order, appears at 66 Pa. C.S. §703(g).

It is well established that the power to grant a petition for reconsideration is discretionary, and that mere disagreement with a Commission decision is insufficient reason to grant a petition for reconsideration. The Petitioner must do more than attack the merits of a previous Commission decision. The party seeking reconsideration must demonstrate clearly to this Commission that its Initial Opinion and Order was in error. Pa. P.U.C. v. The Bell Telephone Company, 54 Pa. PUC 473 (1980); Pa. PUC v. Ge-Co Cab, Inc., 50 Pa. PUC 187 (1976). Factors such as a change in circumstances or newly-discovered evidence, which was unavailable at time of the initial determination may be relevant in determining whether or not to grant a petition for reconsideration. See Brinks, Inc. v. Pa. PUC, 16 Pa. Commonwealth Court 300, 328 A.2d 582 (1974); Application of Commonwealth Telephone, 24 Pa. Commonwealth Court 243, 355 A.2d 611 (1976). In making our determination, we will consider whether the petition for reconsideration presents new and novel arguments, or raises issues previously overlooked. Philip Duick, et al. v. Pennsylvania Gas & Water Company, C-R0597001 (1983).

PECO's request and arguments in support thereof are the same as it asserted in its Exceptions to ALJ Klovekorn's Recommended Decision. We find nothing in PECO's Petition to persuade us that our initial decision, denying the exceptions in this matter, was unwise or erroneous.

In its Petition, Bell has objected to the rationale of ALJ Klovekorn in allocating Bell 100% of its relocation costs. Bell's position on this matter has been previously set forth and rejected. This position was also reasserted by Bell in its late-filed Exceptions to ALJ Klovekorn's Recommended Decision.^{1/}

Bell also raises the issue of our action taken in Borough of Ashley v. Conrail, et al., C-812687 (November 26, 1985). We will point out that the gist of our action in that case was to clarify; that the 1963 amendment to the Pennsylvania Public Utility Law abrogated the common law

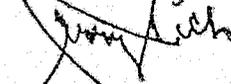
^{1/} In its Petition Bell asserts that the Commission did not acknowledge or make any explicit determination about its Exceptions. This is incorrect. We specifically addressed the matter of Bell's late-filed Exceptions in Footnote 2 at page 3 of our Opinion and Order.

rule that precluded a non-transportation utility from recovering any relocation costs, and that the allocation of such costs was within this Commission's discretion.

In consideration of the foregoing, we conclude that the Petitions for Reconsideration, filed by Bell and PECO, must be denied as they raise no new arguments or considerations which persuade us that our action in this matter was erroneous; THEREFORE,

IT IS ORDERED: That the Petitions for Reconsideration, filed by The Bell Telephone Company of Pennsylvania and Philadelphia Electric Company, of our Opinion and Order entered December 4, 1983, at C-00019707, are denied.

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: February 6, 1986

ORDER ENTERED: February 7, 1986

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Office of Chief Counsel



November 5, 1986

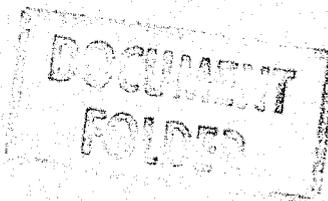
IN REPLY REFER TO

RECEIVED

NOV 5 - 1986
SECRETARY'S OFFICE
Public Utility Commission

Jerry Rich, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, Pennsylvania 17120

Re: C-0019707



Dear Mr. Rich:

Enclosed for filing with the Commission are the original and three (3) copies of the Application for Certification of Damages to Court of Common Pleas in the above captioned matter.

Very truly yours,

for George Bristol
Assistant Counsel in Charge
East Office
Office of Chief Counsel

220/GB/mvh
(215) 560-2397

Enclosures

cc: W. J. Clements, P. E.
Engineering District 6-0

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE CHIEF COUNSEL
BY: GEORGE BRISTOL
ASSISTANT COUNSEL
IDENTIFICATION NO: 15454
1203 State Office Building
Philadelphia, PA 19130
(215) 560-2397

RECEIVED
NOV 6 - 1986
SECRETARY'S OFFICE
Public Utility Commission

BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION

COMMONWEALTH OF PENNSYLVANIA : COMPLAINT
DEPARTMENT OF TRANSPORTATION
200 Radnor-chester Road
St. Davids, PA 19087 :

VS. : DOCKET NO: C-0019707

CONSOLIDATED RAIL CORPORATION :
Room 1200
15 North 32nd Street
Philadelphia, PA 19104 :

APPLICATION OF THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF TRANS-
PORTATION FOR CERTIFICATION OF THE
MATTER TO THE COURT OF COMMON PLEAS
OF MONTGOMERY COUNTY, PENNSYLVANIA,
PURSUANT TO 66 PA. C.S.A. §2704

TO THE HONORABLE LINDA C. TALIAFERRO, CHAIRMEN, AND
ASSOCIATE MEMBERS OF THE PENNSYLVANIA PUBLIC UTILITY
COMMISSION:

AND NOW, comes the Commonwealth of Pennsylvania,
Department of Transportation, through its attorney,
GEORGE BRISTOL, ASSISTANT COUNSEL, and respectfully
applies to this Honorable Commission to certify this
matter to the Court of Common Pleas of Montgomery
County for determination of the amount of damages due
the respondent, Consolidated Rail Corporation, and

DOCUMENT
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NOV 6 1986

states in support of this Application the following reasons:

1. The Petitioner is the Commonwealth of Pennsylvania, Department of Transportation, (hereinafter, "the Commonwealth"), having local offices at 200 Radnor-Chester Road, St. Davids, Pennsylvania, and legal offices at 1203 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130. Kindly forward all correspondence to George Bristol, Assistant Counsel at 1203 State Office Building, 1400 Spring Garden Street, Philadelphia, Pennsylvania 19130.

2. The Respondent is Consolidated Rail Corporation, owner of property located at Matsonford Bridge structure, connecting the Boroughs of Conshohocken and West Conshohocken, in Montgomery County, Pennsylvania (hereinafter, "the subject premises").

3. On December 4, 1985, by Order of the Pennsylvania Public Utility Commission at Complaint Docket No. C-00019707, paragraph four a portion of the subject premises described above and belonging to Consolidated Rail Corporation, parcel A and B were appropriated for construction of a portion of Legislative Route 46140, Section A00, under provisions of Section 409 of the Public Utility Law, 1937, P.L. 1053,

as amended, 66 P.S. 1179. Descriptions of said appropriations are attached hereto and marked Exhibits A and B.

4. No Preliminary Objections to said Order of the Pennsylvania Public Utility Commission have been filed by either party.

5. The Commonwealth and Consolidated Rail Corporation have been unable to agree upon the amount of just compensation due Consolidated Rail Corporation, nor have the latter consented to accepting the Commonwealth's determination of estimated just compensation.

6. The Commonwealth is unable to take possession of the acquired property, until payment of estimated just compensation is remitted to either a claimant or a court of common pleas.

7. The Commonwealth is unable to remit estimated just compensation into the Court of Common Pleas of Montgomery County, until the matter is certified over from the Public Utility Commission.

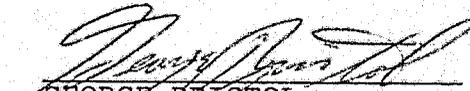
8. The Commonwealth wishes to proceed expediently with construction of the proposed highway improvement, but is unable to acquire possession of the subject premises through nonacceptance of estimated just compensation.

9. The Pennsylvania Public Utility Commission, upon application of a party in interest, may "submit to the court of common pleas of the county wherein the property affected is located" for the ascertainment of damages due to the condemnation of private property for public use. (See P.L. 578, July 1, 1978, No. 116 §1, 66 Pa. C.S.A. 2704(b)).

10. No prejudice will result from the transfer of this matter to the Montgomery County Court of Common Pleas to the respondents.

WHEREFORE, the Commonwealth of Pennsylvania, Department of Transportation respectfully requests that this Honorable Commission submit and certify this matter to the Court of Common Pleas of Montgomery County, for a determination of the amount of damages due Consolidated Rail Corporation, and for allowance of payment of estimated just compensation into Court, pursuant to 66 Pa. C.S.A. §2704.

RESPECTFULLY SUBMITTED:


GEORGE BRISTOL
ASSISTANT COUNSEL

4. That in accordance with the provisions of Section 2702(b) of the Public Utility Code, 66 Pa. C.S.A. §2702(b), the following described parcels of property be and are hereby appropriated for the construction of the crossing in accordance with the plans approved by the Commission and that this paragraph be recorded with the Recorder of Deeds of Montgomery County indexed under the name or names of the record owners of the said property, grantor, and the Pennsylvania Department of Transportation, grantee, at the sole cost and expense of Pennsylvania Department of Transportation.

Record Owner

Consolidated Rail Corporation
c/o J. T. Sullivan, P.E.
Consolidated Rail Corporation
Room 1200
15 North 32nd Street
Philadelphia, PA 19104

All that certain tract of land, together with all buildings, structures or parts thereof of any description or use whatsoever, erected or located thereon, situated in the Borough of West Conshohocken, Montgomery County, bounded and described as follows:

AERIAL EASTMENT, SURFACE EASEMENT, AND RIGHT-OF-WAY

PARCEL "A"

BEGINNING at a point located forty five feet left and perpendicular to Station 128+99.00 of the L.R. 46140, Section A00 R/W Baseline; thence North 35°27'28" East, a distance of 66.94 feet to a point; thence North 35°25'47.5" East, a distance of 2.02' feet to a point, said point being located forty five feet left and perpendicular to Station 129+68.00 of the L.R. 46140, Section A00, R/W Baseline; thence along a line on a curve to the left, having a radius of 1865.08 feet, an arc distance of 11.00 feet, said line having a chord bearing South 54°32'34.5" East, and a chord length of 11.00 feet, to a point on the northwesterly Legal R/W Line for existing L.R. 46140, a.k.a. Fayette Street, fifty feet width; thence along the said existing Legal R/W Line, South 35°27'28" West,

a distance of 68.96 feet to a point; thence leaving the Legal R/W Line of Fayette Street, along a line having a curve to the right with a radius of 1974.64 feet, an arc distance of 11.00 feet, said line having a chord bearing North 54°32'32" West and a chord length of 11.00 feet, to a point and the place of BEGINNING.

Containing 769.56 square feet of Aerial Easement Right-of-Way, which includes 189.20 square feet of surface easement for bridge piers and appurtenances.

PARCEL "B"

BEGINNING at a point located forty two feet right and perpendicular to Station 128+75.50 of the L.R. 46140 Section A00 R/W Baseline; thence along a line curving to the right, said line having a radius of 1999.64 feet and arc length 26.01 feet, with a chord bearing South 53°00'00.1" West and chord length of 26.01 feet to a point, said point being on the existing Legal Right-of-Way Line for L.R. 46140, a.k.a. Fayette Street, fifty feet width; thence along the southeasterly Legal Right-of-Way Line of Fayette Street, North 35°27'28" East, a distance of 180.34 feet to a point; thence leaving the existing Legal Right-of-Way Line, South 56°19'36.7" East, a distance of 22.20 feet to a point; thence South 33°39'28" West, a distance of 24.23 feet to a point; thence along a line curving to the right, having a radius of 2135.30 feet, an arc distance of 67.08 feet, said line having a chord bearing South 34°33'28" West and chord distance of 67.08 feet, to a point; thence South 34°11'27.4" West, a distance of 90.46 feet to a point and the place of BEGINNING.

Containing 4348.20 square feet of Aerial Easement Right-of-Way, which includes 1000.00 square feet of surface easement for bridge piers and appurtenances, and 1787.00 square feet of Required Right-of-Way for Access Road No. 1.

The above tract of land is a portion of real estate which became legally vested in Consolidated Rail Corporation from Reading Company, William Davis, Samuel Berry, and Bethel Moore, Trustees.

5. That in accordance with the provisions of Section 2702(b) of the Public Utility Code, 66 Pa. C.S.A. §2702(b), the following described parcels of property be and are hereby appropriated for the construction of the crossing in accordance with the plans approved by the Commission and that this paragraph be recorded with the Record of Deeds of Montgomery County indexed under the name or names of the record owners of the said property, grantor, and the Borough of West Conshohocken, Montgomery County, Grantee, at the sole cost and expense of the Borough of West Conshohocken.

Record Owner

Consolidated Rail Corporation
c/o J. T. Sullivan, P.E.
Consolidated Rail Corporation
Room 1200
15 North 32nd Street
Philadelphia, PA 19104

All that certain tract of land, together with all buildings, structures or parts thereof of any description or use whatsoever, erected or located thereon, situated in the Borough of West Conshohocken, Montgomery County, bounded and described as follows:

RIGHT-OF-WAY

PARCEL "A"

BEGINNING at a point on the Southeast side of L.R. 46140 (50' wide) at the Northwest corner of the Bridge Ramp R/W Line, said point also being located 18 feet to the right of Station 130+56 L.R. 46140, Sec. A00 R/W baseline; thence along the Consolidated Rail Corporation property line, South $54^{\circ}41'10.4''$ East, a distance of 105.00 feet to a point on the property line between the Consolidated Rail Corporation and Oil Distributors of Philadelphia, Inc.; thence along the said property line South $35^{\circ}18'49.6''$ West, a distance of 84.00 feet to a point on the required R/W line for Access Road No. 1; thence along the required R/W line of Access Road No. 1 by a curve to the right having a radius of 80.00 feet, an arc distance of 9.52 feet, said line having a chord bearing of North $57^{\circ}41'56.6''$ West, a distance of 9.51 feet to a point, said point being 21.5 feet

left of Station 9+13.50 Access Road No. 1 R/W baseline; thence North $54^{\circ}41'10.4''$ West, a distance of 71.50 feet to a point, said point being 21.5 feet left of Station 9+85 Access Road No. 1 R/W baseline; thence North $35^{\circ}18'49.6''$ East, a distance of 6.50 feet to a point; thence North $54^{\circ}41'10.4''$ West a distance of 24.00 feet to a point on the legal R/W line for L.R. 46140 (50' wide), said point being located 16 feet to the right of Station 129+78 L.R. 46140, Sec. A00 R/W baseline; thence along the legal R/W line of L.R. 46140, North $35^{\circ}18'49.6''$ East, a distance of 78.00 feet to a point and the place of BEGINNING.

Containing 8925 square feet, more or less.

PARCEL "B"

BEGINNING at a point where Access Road No. 1 R/W baseline intersects the Consolidated Rail Corporation and Telford Industrial Development Authority property line, said point also located 17.50 feet left of Station 11+25 of Access Road No. 1 R/W baseline; thence along the Access Road No. 1 required R/W line the following six courses and distances: First, by a curve to the left having a radius of 132.50 feet, an arc distance of 5.68 feet to a point said line having a chord bearing of North $75^{\circ}38'36''$ West, a distance of 5.68 feet, said point being located 17.50 feet to the left of Station 11+31.43 of Access Road No. 1 R/W baseline; Second, North $77^{\circ}26'43.7''$ West, a distance of 3.74 feet to a point, located 17.50 feet to the left of Station 11+35.17 Access Road No. 1 R/W baseline; Third, by a curve to the right having a radius of 167.50 feet, an arc distance of 84.31 feet to a point, said line having a chord bearing of North $63^{\circ}01'33.3''$ West, a distance of 83.42 feet, said point located 17.50 feet left of Station 12+10.67 Access Road No. 1 R/W baseline; Fourth, North $48^{\circ}36'25.1''$ West, a distance of 787.85 feet to a point, said point located 17.50 feet left of Station 19+98.52 Access Road No. 1 R/W baseline; Fifth, by a curve to the right having a radius of 267.50 feet, an arc distance of 80.30 feet to a point, said line having a chord bearing of North $39^{\circ}53'58.3''$ West, a distance of 80.00 feet, said point located 17.50 feet left of Station 20+74.51 on Access Road No. 1 R/W baseline; Sixth, North $31^{\circ}11'31.6''$ West, a distance of 23.49 feet to a point on the Consolidated Rail Corporation and Telford Industrial Development Authority property line, said point located 17.50 feet left of Station 20+98 of Access Road No. 1 R/W baseline; thence

along the said Consolidated Rail Corporation and Telford Industrial Development property line South $48^{\circ}28'10.9''$ East, a distance of 748.00 feet to a point located on the Access Road No. 1 R/W baseline at Station 13+53; thence by a curve to the left having a radius of 3774.83 feet, an arc distance of 88.05 feet to a point, said line having a chord bearing of South $49^{\circ}15'18.3''$ East, a distance of 88.05 feet, said point located 1.00 feet right of Station 12+64.60 of Access Road No. 1 R/W baseline; thence by a curve to the left having a radius of 1865.06 feet an arc distance of 145.67 feet to a point, said line having a chord bearing of South $51^{\circ}42'09.4''$ East, a distance of 145.64 feet to a point and the place of BEGINNING.

Containing 18,100 square feet, more or less.

PARCEL "C"

BEGINNING at a point on the Consolidated Rail Corporation and Telford Industrial Development Authority property line which point is located 65.00 feet left of Station 22+60. of Access Road No. 1 R/W baseline; thence North $85^{\circ}25'28.6''$ West, a distance of 24.41 feet to a point; thence North $49^{\circ}35'44.7''$ West a distance of 56.20 feet to a point, said point being 46 feet left of Station 23+83, Access Road No. 1 R/W baseline; thence North $48^{\circ}16'24.5''$ West a distance of 122.88 feet; thence North $41^{\circ}19'52.3''$ East, a distance of 15.53 feet to a point, said point being located 68 feet right of Station 24+32, Access Road No. 1 R/W baseline; thence South $48^{\circ}25'12''$ East, a distance of 199.74 feet to point and the place of BEGINNING.

Containing 2,950 square feet, more or less.

AERIAL EASEMENT

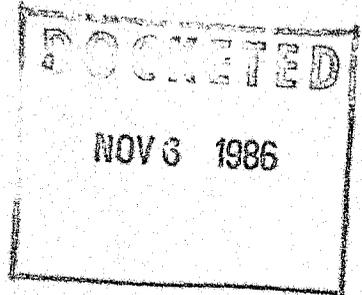
BEGINNING at a point on the Southwest side of the Consolidated Rail Corporation property line, which point is located 67.00 feet left and radial to Station 24+46 of Access Road No. 1 R/W baseline; thence along the property line between the Consolidated Rail Corporation and the Telford Industrial Development Authority, North $47^{\circ}14'01.2''$ West, a distance of 121.03 feet to a point; thence crossing the railroad tracks, North $41^{\circ}19'52.3''$ East, a distance of 41.85 feet to a point; thence South $48^{\circ}16'24.5''$ East, a distance of 122.88 feet to a point also located 46.00 feet

left and radial to Station 23+83 of Access Road No. 1 R/W baseline; thence crossing over the railroad tracks, South 43°25'22.4" West, a distance of 44.06 feet to a point and the place of BEGINNING.

Containing 5237.44 square feet, more or less.

The above tract of land is a portion of real estate which became legally vested in Consolidated Rail Corporation from Reading Company, William Davis, Samuel Berry, and Bethel Moore, Trustees.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE CHIEF COUNSEL
BY: GEORGE BRISTOL
ASSISTANT COUNSEL
IDENTIFICATION NO: 15454
1203 State Office Building
Philadelphia, PA 19130
(215) 560-2397

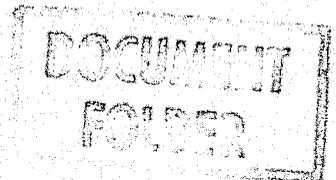


COMMONWEALTH OF PENNSYLVANIA : COMPLAINT
DEPARTMENT OF TRANSPORTATION
200 Radnor-chester Road
St. Davids, PA 19087 :

VS. : DOCKET NO: C-0019707

CONSOLIDATED RAIL CORPORATION :
Room 1200
15 North 32nd Street
Philadelphia, PA 19104 :

MEMORANDUM IN SUPPORT OF THE
APPLICATION OF THE COMMONWEALTH
OF PENNSYLVANIA, DEPARTMENT OF
TRANSPORTATION FOR CERTIFICATION
OF THE MATTER PURSUANT TO 66 PA.
C.S.A. §2704



The procedural history of this matter has been detailed in the attached Application.

The amount of compensation for damages incurred as a result of an Order of the Public Utility Commission remains within the jurisdiction of the Commission for determination, unless transferred by said Commission on the Motion of any party in interest. 66 Pa. C.S.A. §2704, states, in pertinent part, as follows:

§2704. Compensation for damages occasioned by construction, relocation or abolition of

crossings.

* * * * *

- (b) Judicial review. - Any party to the proceeding dissatisfied with the determination of the commission may appeal therefrom, as provided by law, and for this purpose is hereby authorized to sue the Commonwealth. The commission may, of its own motion, or upon application of any party in interest, submit to the court of common pleas of the county wherein the property affected is located, the determination of the amount of damages to any property owner due to such condemnation, for which purpose such court shall appoint viewers, from whose award of damages an appeal to said court shall lie on the part of any person or party aggrieved thereby, under the general law applicable to the appointment of viewers, for the ascertainment of damages due to the condemnation of private property for public use. (emphasis added)

1978, July 1, P.L. 598, No. 116 §1.

In light of the preceding, and the Commonwealth's necessity to transfer the matter, it is respectfully requested that the matter be certified from the Pennsylvania Public Utility Commission to the Montgomery County Court of Common Pleas.

RESPECTFULLY SUBMITTED:


GEORGE BRISTOL
ASSISTANT COUNSEL

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE CHIEF COUNSEL
BY: GEORGE BRISTOL
ASSISTANT COUNSEL
IDENTIFICATION NO: 15454
1203 State Office Building
Philadelphia, PA 19130
(215) 560-2397

COMMONWEALTH OF PENNSYLVANIA : COMPLAINT
DEPARTMENT OF TRANSPORTATION
200 Radnor-chester Road
St. Davids, PA 19087 :

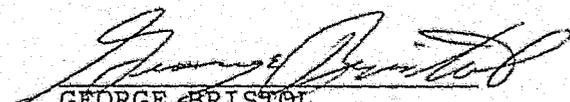
VS. : DOCKET NO: C-0019707

CONSOLIDATED RAIL CORPORATION :
Room 1200
15 North 32nd Street
Philadelphia, PA 19104 :

CERTIFICATION OF SERVICE

GEORGE BRISTOL, ASSISTANT COUNSEL for the Commonwealth of Pennsylvania, Department of Transportation, does hereby certify that he did serve one copy of the Commonwealth's Application to Transfer, Memorandum, and Order in the above captioned matter upon the respondent, by making same, certified mail, on
November 5, 1986 to:

CONSOLIDATED RAIL CORPORATION
Room 1200
15 North 32nd Street
Philadelphia, PA 19104


GEORGE BRISTOL
ASSISTANT COUNSEL

LAW OFFICES
JOEL E. MAZOR
1500 LOCUST ST., SUITE 2120
PHILADELPHIA, PA 19102

(215) 977-4995

RECEIVED

NOV 25 1986

November 20, 1986

SECRETARY'S OFFICE
Public Utility Commission

Jerry Rich, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17120

RE: Commonwealth of Pennsylvania, Department of Transportation v. Consolidated Rail Corporation, Docket No. C-0019707.

Dear Mr. Rich:

We are in receipt of a copy of the application for certification of damages to the Court of Common Pleas of Montgomery County which has been filed by the Pennsylvania Department of Transportation.

Consolidated Rail Corporation, while it has no objection to the granting of this petition, would wish to point out to the Commission and to the applicant that contrary to the averment made in paragraph 5 of the petition, that Consolidated Rail Corporation has not consented to accepting Commonwealth's determine of estimated just compensation, that the respondent has, in fact, executed all documents necessary to receive the estimated just compensation and still wishes to receive it without prejudice to whatever rights it has to recover additional compensation.

Very truly yours,


Joel E. Mazor

JEM/cmt

cc: George Bristol, Esquire
Assistant Counsel in Charge
East Office
1203 State Office Building
Philadelphia, PA 19130

