



(CONTINUED)

A-19707

Department of Transportation of the Commonwealth  
of Pennsylvania v. Reading Company, Debtor,  
Borough of Conshohocken, Borough of West  
Conshohocken and County of Montgomery

Reply Exceptions to timely Exceptions filed by: Pennsylvania Department of  
Transportation, June 17, 1985.

Timely reply exceptions to late-filed exceptions listed but not attached:  
Pennsylvania Department of Transportation, June 17, 1985.

THIS CASE IS TO BE ASSIGNED TO THE BUREAU OF SAFETY & COMPLIANCE TO MONITOR  
THIS PROCEEDING DURING THE CONSTRUCTION PHASE AND TO SUMMARIZE FINAL  
CONSTRUCTION COSTS.



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P. O. BOX 3265, HARRISBURG, Pa. 17120  
December 4, 1985

IN REPLY PLEASE  
REFER TO OUR FILE  
C-00019707

To All Parties

Department of Transportation of the  
Commonwealth of Pennsylvania

v.

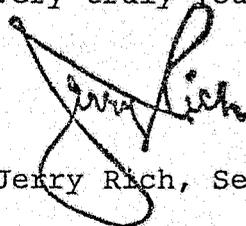
Consolidated Rail Corporation, Southeastern Pennsylvania Transportation Authority, Upper Merion and Plymouth Railroad Company, Boroughs of Conshohocken and West Conshohocken, Plymouth Township, Montgomery County, The Bell Telephone Company of Pennsylvania, Philadelphia Suburban Water Company and Philadelphia Electric Company

To Whom It May Concern:

This is to advise you that an Opinion and Order has been adopted by the Commission in public meeting held July 11, 1985 in the above entitled proceeding.

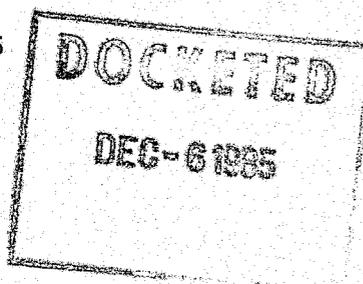
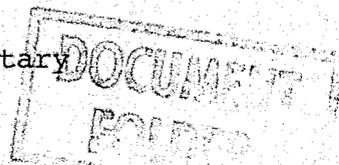
A copy of this Opinion and Order has been enclosed for your records.

Very truly yours,



Jerry Rich, Secretary

fao  
Encls.  
Cert. Mail  
Office of Special Assistants  
Law Bureau  
Refer to letter dated May 28, 1985



PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120

Public Meeting held July 11, 1985

Commissioners Present:

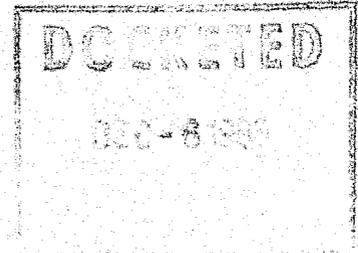
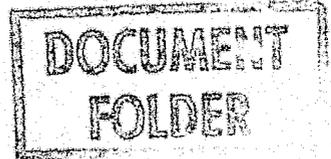
Linda C. Taliaferro, Chairman  
James H. Cawley  
Frank Fischl  
Bill Shane

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 Telephone Company of  
Pennsylvania, Philadelphia Sur-  
burban Water Company, and  
Philadelphia Electric Company.

C-00019707



OPINION AND ORDER

BY THE COMMISSION:

This proceeding involves the proposed reconstruc-  
tion of the Matsonford Bridge structure, connecting the  
Boroughs of Conshohocken and West Conshohocken, in Montgomery  
County. The Matsonford Bridge crosses over and above the  
grade of the tracks of Reading Company (now partially Con-  
solidated Rail Corporation [Conrail] and partially Southeastern  
Pennsylvania Transportation Authority [SEPTA], on each side  
of the Schuylkill River. According to the Pennsylvania  
Department of Transportation (PennDOT), the structure "is in  
a state of disrepair."<sup>1/</sup>

A hearing was held on July 24, 1984, before  
Administrative Law Judge (ALJ) Joseph J. Klovekorn. The  
record consisted of eighty-two (82) pages of testimony,  
five (5) exhibits presented by PennDOT, four (4) exhibits

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<sup>1/</sup> For a complete history of this proceeding, see the Recom-  
mended Decision at pages 1-4.

presented by the Philadelphia Electric Company (PECO), seven (7) exhibits presented by the Philadelphia Suburban Water Company (PSWC), and two (2) exhibits presented by The Bell Telephone Company of Pennsylvania (BELL).

By way of Recommended Decision issued on May 28, 1985, ALJ Klovekorn recommended, inter alia:

1. [T]hat the petition filed December 27, 1983, by the Pennsylvania Department of Transportation for modification of our Order of October 21, 1975, be and is hereby approved to the extent it is consistent with this Order.
2. [T]hat the Commission establish its jurisdiction limits for this project as follows:

Matsonford Bridge - All of the bridge and highway approaches thereto from Front Street in West Conshohocken Borough to Elm Street in Conshohocken Borough, including the Bell Telephone facilities from Elm Street to Spring Street, but excluding the construction of the metal plate arch over the abolished Conrail line.

Access Road No. 1 - All of Access Road No. 1.

Access Road No. 2 - All of Access Road No. 2.

Harry Street - All of Harry Street including the at-grade rail-highway crossing.

3. [T]hat the final construction plans prepared by the Pennsylvania Department of Transportation, marked as Exhibit Nos. A and B, submitted at the hearing held July 24, 1984, be and are hereby approved.

(R.D. p. 76).

Timely Exceptions to the Recommended Decision were filed by the following parties: PennDOT on June 7, 1985; Conrail on June 11, 1985; PECO on June 11, 1985; and PSWC on June 12, 1985. Late-filed Exceptions were submitted by Bell

on June 14, 1985; SEPTA on June 14, 1985, and the Borough of West Conshohocken on June 17, 1985.<sup>2/</sup>

In its Exceptions, Conrail contends that it receives "absolutely no benefit" from the reconstruction of the Matsonford Bridge structure, therefore, it should not be required to bear any costs of future maintenance for the piers and bridge superstructure spanning over and adjacent to Conrail's tracks.<sup>3/</sup> Conrail further contends that it should not be responsible for future maintenance of the bridge substructure at access Road No. 1, apparently because it receives "absolutely no benefit" from the project. We disagree.

Ordering Paragraph No. 27, which Conrail requests should be modified so as to direct it to maintain its railroad facilities in the area of the crossing only, reads as follows:

That upon completion of the improvement and its opening to public use, Consolidated Rail Corporation, at its sole cost and expense, furnish all materials and do all work necessary to maintain (1) the Matsonford Bridge Piers and entire bridge superstructure spanning over and adjacent to its tracks, (2) access Road No. 1 bridge substructure, and (3) its railroad facilities in the area of the crossings; all in a safe and satisfactory condition.

(R.D., pps. 91-92).

Contrary to the contention of Conrail, a railroad, and in particular Conrail, patently receives benefits from a grade separated crossing such as the Matsonford Bridge.

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<sup>2/</sup> The aforementioned parties' late-filed Exceptions were not accompanied by an Application for Waiver of Formal Requirements, therefore, we shall not address the arguments in this Opinion and Order. Although it may be appropriate under extraordinary circumstances for this Commission to, sua sponte, waive its regulations, we decline to do so in light of our review of the arguments raised in the late-filed Exceptions.

<sup>3/</sup> Conrail also contends that PennDOT should be assigned the obligation of maintaining the entire roadway surface.

These benefits which have been recognized by this Commission include, but are not limited to, the elimination of potential dangers between trains and motor vehicles, the resulting elimination of any potential negligence actions and the cost of insurance for the same, and the elimination of the cost and maintenance of automatic protection at an otherwise at-grade crossing. Additionally, the railroad enjoys the benefits of enhanced speed and added safety to its employees and passengers. In light of these enumerated benefits and the fact that Conrail has not been allocated any costs for the construction of the new bridge, we conclude that Conrail should be responsible for the future maintenance in question. Accordingly, the Exceptions of Conrail are denied.

In PECO's Exceptions, it contends that the ALJ erred in awarding PECO only 60% reimbursement, as opposed to 100% reimbursement, for its costs to be incurred in relocating and replacing its 2-inch gas main along Access Road No. 1. PECO, in support of its contention, argues that the ALJ improperly considered the two factors of "betterment" and "future occupancy of the public right-of-way". PECO also excepts to the ALJ's recommendation that it bear 100% of the remaining costs it incurs in "furnishing material and performing work in accordance with this Order". In support, PECO asserts that the ALJ gave an "excessive and disproportionate" amount of weight to PECO's occupancy of a public right-of-way.<sup>4/</sup>

The Ordering Paragraphs which PECO has excepted to state:

22. That upon completion of the improvement ordered herein, Pennsylvania Department of Transportation, when and as certified by this Commission, pay to Philadelphia Electric Company a sum or sums of money equal to 60% of the actual cost incurred by PECO in furnishing material and performing work to alter its 2-inch gas main along Access Road No. 1.
23. That Philadelphia Electric Company bear the remaining cost it incurred in furnishing material and performing work in accordance with this Order.

(R.D. p. 91).

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<sup>4/</sup> PECO also excepted to Finding of Fact No. 14 of the Recommended Decision asserting that it is based upon an erroneous interpretation of the testimony on the subject of estimated useful life.

We are of the opinion that the ALJ has properly considered the pertinent factors such as: (1) the benefit received by the ratepayers of the particular utility; (2) the availability of state and/or federal funding; (3) the placing of the costs upon the party responsible; and (4) the equities of a particular situation. It is undisputed that some of PECO's gas facilities have been attached to the Matsonford Bridge since the early 1930's. Thus, PECO has had free use of said right-of-way for over 54 years. We do not believe it is unreasonable or inappropriate for PECO, under the circumstances of this case, to bear the cost of relocating its facilities which are within a public right-of-way. Moreover, we are requiring PennDOT to reimburse PECO for 60% of the actual cost incurred in constructing a 2-inch service line which, in the future, will occupy a public right-of-way. Giving due consideration to all of the factors involved, we conclude that the ALJ's recommendations with respect to PECO's costs are appropriate and, accordingly, the exceptions of PECO are also denied.

In the Exceptions of PSWC, it argues that the ALJ's recommendation of only 20% reimbursement for the relocation of a facility that was relocated only 4 years ago is improper. PSWC contends in its exceptions that:

The parties responsible for the project should be held responsible for the full consequences of their work. This would include reimbursement to adjacent property owners for damages to their property and reimbursement to utilities for relocation of their adjacent facilities. (Emphasis added).

(PSWC's Exceptions at page 3). According to PSWC, other parties (apparently PennDOT) should pay for the relocation of PSWC's facilities which are adjacent to the Matsonford Bridge.

We disagree. The "party responsible for the project" is just one factor to be considered by this Commission in fairly and equitably apportioning costs in a railroad/highway crossing proceeding. We are of the view that the ALJ has appropriately considered all pertinent factors (including the benefits which inure to a utility that locates its facilities in a public right-of-way) in allowing PSWC 20% reimbursement. Therefore, the exceptions of PSWC are similarly denied.

Turning now to the Exceptions of PennDOT, we concur in this party's observation that although the ALJ concludes that the Borough of West Conshohocken is the proper party to maintain the bridge superstructure and the

highway approaches thereto,<sup>5/</sup> the ALJ's Ordering Paragraphs make no provision implementing said conclusion. Therefore, finding the conclusion of the ALJ to be otherwise reasonable, we shall reflect the same in our Ordering Paragraph No. 36. Additionally, we find it appropriate to order the Borough of Conshohocken to maintain Access Road No. 2 as this road will become a borough street upon the completion of the project; thus, we shall reflect the same in our Ordering Paragraph No. 37. Finally, we concur in PennDOT's assertion that the post-hearing agreement entered into by PennDOT and SEPTA should be recognized in our assignment of responsibilities. Therefore, Ordering Paragraph No. 9 shall be amended to reflect the agreement; THEREFORE,

IT IS ORDERED:

1. That the Petition filed December 27, 1983, by the Pennsylvania Department of Transportation for modification of our Order of October 21, 1975, be and is hereby approved to the extent it is consistent with this Order.

2. That the Commission establish its jurisdiction limits for this project as follows:

Matsonford Bridge - All of the bridge and highway approaches thereto from Front Street in West Conshohocken Borough to Elm Street in Conshohocken Borough, including the Bell Telephone facilities from Elm Street to Spring Street, but excluding the construction of the metal plate arch over the abolished Conrail line.

Access Road No. 1 - All of Access Road No. 1

Access Road No. 2 - All of Access Road No. 2

Harry Street - All of Harry Street including the at-grade rail-highway crossing

3. That the final construction plans prepared by the Pennsylvania Department of Transportation, marked as Exhibit Nos. A and B, submitted at the hearing held July 24, 1984, be and are hereby approved.

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<sup>5/</sup> See Recommended Decision at page 71.

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.

Record Owner

Southeastern Pennsylvania Transportation Authority  
c/o Edward H. Huss, Esquire  
5th Floor  
130 South 9th Street  
Philadelphia, PA 19107

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 Conshohocken, Montgomery County, bounded and described as follows:

AERIAL EASEMENT AND SURFACE EASEMENT

PARCEL "A"

BEGINNING at a point located forty feet left and perpendicular to Station 140+63.00 of the L.R. 46140, Section A00 R/W Baseline; thence South  $67^{\circ}40'34.5''$  East, a distance of 15.40 feet to a point, said point being the north-westerly Legal Right-of-Way Line of L.R. 46140, a.k.a. Fayette Street, fifty feet width; thence along the said existing Legal Right-of-Way Line of Fayette Street, South  $35^{\circ}27'28''$  West, a distance of 128.50 feet to a point; thence leaving the Legal Right-of-Way Line, along a line curving to the right, with a radius of 275.00 feet, an arc distance of 15.52 feet, said line having a chord bearing North  $69^{\circ}28'25''$  West and chord distance of 15.52 feet, to a point; thence North  $35^{\circ}27'28''$  East, a distance of 129.00 feet, to a point and the place of BEGINNING.

Containing 1931.25 square feet of aerial easement right-of-way, which includes 720.00 square feet of surface easement for bridge piers and appurtenances.

PARCEL "B"

BEGINNING at a point located forty feet right and perpendicular to Station 140+81.00 of the L.R. 46140, Section A00 R/W Baseline; thence South  $35^{\circ}27'28''$  West, a distance of 109.00 feet; thence along a line curving to the right

with a radius of 302.00 feet, an arc distance of 16.77 feet, said line having a chord bearing North  $81^{\circ}06'26.3''$  West and a chord distance of 16.77 feet, to a point, said point being on the southeasterly Legal Right-of-Way Line for L.R. 46140, a.k.a. Fayette Street, fifty feet width, thence along the Legal Right-of-Way Line of Fayette Street, North  $35^{\circ}27'28''$  East, a distance of 110.00 feet to a point; thence leaving the Legal Right-of-Way Line, South  $77^{\circ}58'15.7''$  East, a distance of 16.35 feet to a point and the place of BEGINNING.

Containing 1635.00 square feet of Aerial Easement Right-of-Way, which includes 585.00 square feet of surface easement for bridge piers and appurtenances.

PARCEL "C"

BEGINNING at a point located forty feet left and perpendicular to Station 139+61.00 of the L.R. 46140, Sec. A00 R/W Baseline; thence North  $35^{\circ}27'28''$  East, a distance of 42.00 feet to a point; thence along a line curving to the left with a radius of 305.00 feet, an arc distance of 15.40 feet, said line having a chord bearing South  $67^{\circ}40'34.5''$  East and a chord length of 15.40 feet, to a point, said point being on the northwesterly Legal Right-of-Way Line of L.R. 46140, a.k.a. Fayette Street, fifty feet width; thence along the said Legal Right-of-Way Line of Fayette Street, South  $35^{\circ}27'28''$  West, a distance of 46.00 feet; thence leaving the existing Fayette Street Legal Right-of-Way Line, North  $52^{\circ}37'59.1''$  West, a distance of 15.01 feet to a point and the place of BEGINNING.

Containing 660.00 square feet of Aerial Easement Right-of-Way.

The above tract of land is a portion of real estate which became legally vested in the Southeastern Pennsylvania Transportation Authority from Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond, and John H. McArthur, Trustees, by Deed Recorded November 1, 1978, in Deed Book Volume 4357, Page 156 in the Recorder of Deeds Office for Montgomery County.

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 hereof 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°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°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°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.

6. 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 railroad owners of the said property, grantor, and the Borough of Conshohocken, Montgomery County, grantee, at the sole cost and expense of the Borough of Conshohocken.

Record Owner

Southeastern Pennsylvania Transportation Authority  
c/o Edward H. Huss, Esquire  
5th Floor  
130 South 9th Street  
Philadelphia, PA 19107

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 Conshohocken, Montgomery County, bounded and described as follows:

PARCEL "A"

BEGINNING at the point of intersection for the Legal Right-of-Way lines for the northwest side of Fayette Street (50' wide) and the southwest side of Old Canal Street (19' wide), said point also being located 17 feet southwest and radial from plan Station 299+96 of Access Road No. 2; thence along the northwest side of Fayette

Street, South  $35^{\circ}27'28''$  West, a distance of 12.40 feet to a point on the required R/W line of Access Road No. 2; thence along the required R/W line of Access Road No. 2 by a curve to the right having a radius of 306.48 feet, an arc distance of 14.99 feet, said line also having a chord bearing of North  $69^{\circ}09'33.5''$  West, a distance of 14.99 feet to a point on the required R/W line of Access Road No. 2; thence continuing along the required R/W line of Access Road No. 2, the following courses and distances: South  $35^{\circ}27'28''$  West, a distance of 41.40 feet to a point; thence North  $53^{\circ}15'06.9''$  West, a distance of 59.17 feet to a point; thence North  $34^{\circ}52'41.7''$  East a distance of 34.00 feet to a point, said point being located 20 feet to the left and radial from Station 300+69; thence along a curve to the right, having a radius of 306.48 feet, an arc distance of 30.29 feet, having a chord bearing of North  $52^{\circ}17'21.7''$  West, a distance of 30.27 feet, to a point; thence North  $49^{\circ}27'34''$  West, a distance of 82.07 feet to a point; thence by a curve to the left having a radius of 165.00 feet, an arc distance of 55.85 feet, and a chord bearing of North  $59^{\circ}09'21.8''$  West, a distance of 55.58 feet to a point on the Southeast Legal R/W Line of Forrest Street Ramp; thence along the Southeast Legal R/W Line of Forrest Street Ramp, North  $35^{\circ}43'38.3''$  East, a distance of 15.46 feet to a point at the Southwest corner of Old Canal Street (19' wide); thence along the Legal R/W Line for Old Canal Street (19' wide) the following courses and distances: along a curve to the right, having a radius of 250.00 feet more or less, an arc distance of 44.43 feet, having a chord bearing South  $56^{\circ}38'40''$  East, a distance of 44.37 feet to a point; thence South  $49^{\circ}42'35.5''$  East, a distance of 94.14 feet to a point; thence by a curve to the left having a radius of 294.48 feet, an arc distance of 104.14 feet, having a chord bearing of South  $59^{\circ}35'24.6''$  East, a distance of 103.60 feet, to a point on the Northwest side of Fayette Street and the place of BEGINNING.

Containing 5,338 square feet, more or less.

#### PARCEL "B"

BEGINNING at a point, said point being offset 20 feet left and radial to Access Road No. 2 plan Station 303+08; thence crossing Access Road No. 2,

North 53°28'37.3" West, a distance of 73.96 feet to a point 20 feet right of Access Road No. 2 plan Station 303+65; thence continuing along the required R/W line for Access Road No. 2, by a curve, to the right, having a radius of 205.00 feet, an arc distance of 92.00 feet, having a chord bearing of North 88°38'24.6" East, a distance of 91.23 feet to a point on the Northwest legal R/W line of Forrest Street Ramp; thence along the Northwest legal R/W line of Forrest Street Ramp, South 35°31'58.9" West, a distance 56.02 feet to a point and the place of BEGINNING.

Containing 2400 square feet, more or less.

PARCEL "C"

BEGINNING at a point, said point being the Northeast corner of intersection of Legal Right-of-Ways for Forrest Street Ramp and Old Canal Street; thence along the Northeast side of Forrest Street, North 34°42'51" East, a distance of 6.10 feet to a point on the Access Road No. 2 required R/W line; thence along a curve to the right having a radius of 205.00 feet, an arc distance of 11.72 feet, having a chord bearing of South 62°37'10.5" East, a distance of 11.72 feet to a point; thence South 13°01'52.9" West, a distance of 5.96 feet to a point on the Northeastern legal R/W line for Old Canal Street; thence along the Northeastern legal R/W line for Old Canal Street, on a curve to the left having a radius of 269.00 feet, an arc distance of 13.98 feet, having a chord bearing of North 63°44'34.3" West, a distance of 13.98 feet to a point on the Southeast R/W line of Forrest Street and the place of BEGINNING.

Containing 88 square feet, more or less.

The above tract of land is a portion of real estate which became legally vested in the Southeastern Pennsylvania Transportation Authority from Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond, and John H. McArthur, Trustees, by Deed Recorded November 1, 1978, in Deed Book Volume 4357, Page 156 in the Recorder of Deeds Office for Montgomery County.

7. That Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary to construct the improvement generally in accordance with the herein approved construction plans.

8. That Southeastern Pennsylvania Transportation Authority at the sole cost and expense of Pennsylvania Department of Transportation, within six (6) months from the date of service of the Commission's order, submit to this Commission for review and approval, a set of detailed location and circuit plan for the installation/relocation of the automatically operated railroad crossing flashing warning lights and gates at the Harry Street at-grade crossing.

9. That Southeastern Pennsylvania Transportation Authority, furnish all material and do all work necessary to install/relocate the automatically operated railroad crossing flashing warning lights and railroad crossbucks at the Harry Street at-grade crossing, all in accordance with the approved plans, at the sole cost and expense of the Pennsylvania Department of Transportation.

10. That Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary to install railroad crossing advance warning signs and railroad crossing pavement markings (RXR) at appropriate locations on the highway approaches to the Harry Street at-grade crossing, all in accordance with the Manual of Uniform Traffic Control Devices (MUTCD).

11. That Pennsylvania Department of Transportation, at its sole cost and expense, establish, mark, and maintain appropriate detours, as necessary, to accommodate vehicular traffic during construction of the improvement.

12. That Pennsylvania Department of Transportation at least ten (10) days prior to the start of work notify all parties of record of the actual date when work will be started on this project.

13. That Consolidated Rail Corporation, at the sole cost and expense of Pennsylvania Department of Transportation, furnish and maintain flagmen, watchmen, and engineering and construction inspection services, as necessary, while work is being performed above, along, and across its tracks in accordance with this order.

14. That Southeastern Pennsylvania Transportation Authority, at the sole cost and expense of Pennsylvania Department of Transportation, furnish and maintain flagmen, watchmen, electric traction men, and engineering and construction inspection services, as necessary, while work is being performed above, along, and across its tracks in accordance with this order.

15. That Upper Merion & Plymouth Railroad Company, at the sole cost and expense of Pennsylvania Department of Transportation, furnish and maintain flagmen, watchmen, and

engineering and construction inspection services as necessary, while work is being performed along and across its tracks in accordance with this order.

16. That the Bell Telephone Company of Pennsylvania, Philadelphia Electric Company, Philadelphia Suburban Water Company, and Plymouth Township Municipal Authority, each respectively, at its initial cost and expense furnish all material and do all work necessary to make alteration to its respective facilities, as necessary to permit the construction of the improvement.

17. That any relocation of, changes in, or removal of any existing structure, equipment or facilities of any public utility other than Consolidated Rail Corporation, Southeastern Pennsylvania Transportation Authority, and the non-transportation utilities involved, which may be required as incidental to the execution of this order, be made by the said public utility at its initial cost and expense and in such a manner so as not to interfere with the construction of the highway improvement.

18. That Pennsylvania Department of Transportation, the involved municipalities, the involved railroad companies, and the involved non-transportation utilities cooperate with each other during the construction of the improvement so that the operations or facilities of either of the parties will not be endangered or unnecessarily impeded.

19. That the work ordered herein be completed in a manner satisfactory to this Commission on or before December 31, 1987, and that upon completion of the improvements, each of the involved parties report to this Commission the actual date of completion of its respective work ordered herein and at the earliest practicable time subsequent to the said date of completion, submit to this Commission a detailed statement of the actual costs incurred in furnishing material and performing work in accordance with this Order.

20. That upon completion of the improvement ordered herein, Pennsylvania Department of Transportation, when as certified by this Commission, pay to Philadelphia Suburban Water Company a sum or sums of money equal to (1) 100% of the actual cost incurred related to work on Access Road No. 1 cul-de-sac, 6-inch water main and re-connecting service lines, and (2) 20% of the actual cost incurred related to work near pier No. 12, 6-inch water main.

21. That Philadelphia Suburban Water Company bear the remaining cost it incurred in furnishing material and performing work in accordance with this order.

22. That upon completion of the improvement ordered herein, Pennsylvania Department of Transportation, when and as certified by this Commission, pay to Philadelphia Electric Company a sum or sums of money equal to 60% of the actual cost incurred by PECO in furnishing material and performing work to alter its 2 inch gas main along Access Road No. 1.

23. That Philadelphia Electric Company bear the remaining cost it incurred in furnishing material and performing work in accordance with this order.

24. That the Bell Telephone Company bear 100% of the cost it incurred in furnishing material and performing work in accordance with this order.

25. That Plymouth Township Municipal Authority having agreed to do so, bear 100% of the cost it incurred in furnishing material and performing work to adjust its manholes in accordance with this order.

26. That Pennsylvania Department of Transportation, at its sole cost and expense, pay all compensation for damages due to the owners of property taken, injured, or destroyed by reason of the construction of the improvement in accordance with this order.

27. That upon completion of the improvement and its opening to public use, Consolidated Rail Corporation, at its sole cost and expense, furnish all material and do all work necessary to maintain (1) the Matsonford Bridge piers and entire bridge superstructure spanning over and adjacent to its tracks, (2) Access Road No. 1 bridge substructure, and (3) its railroad facilities in the area of the crossings; all in a safe and satisfactory condition.

28. That upon completion of the improvement and its opening to public use, Southeastern Pennsylvania Transportation Authority, at its sole cost and expense, furnish all material and do all work necessary to maintain (1) the Matsonford Bridge piers and entire bridge superstructure spanning over and adjacent to its tracks, (2) the stairway, left of highway station 138+78, leading from the bridge to the area near its station, and (3) its railroad facilities in the area of the crossings; all in a safe and satisfactory condition.

29. That upon completion of the improvement and its opening to public use, Southeastern Pennsylvania Transportation Authority, at its sole cost and expense, furnish all material and do all work necessary to maintain the automatically operated railroad crossing flashing warning lights and gates, railroad crossbucks, and the crossing surface between the tracks and for a distance of at least

24 inches outside the outermost tracks, all at the Harry Street crossing, in a safe and satisfactory condition.

30. That Upper Merion and Plymouth Railroad Company, at the sole cost and expense of Pennsylvania Department of Transportation, furnish all material and do all work necessary to maintain, for the limited time it is in use, the automatically operated railroad crossing flashing warning lights and gate, railroad cross bucks and the crossing surface between the tracks for a distance of at least 24 inches outside the outermost rails, all at the temporary entrance ramp to I-476, in a safe and satisfactory condition.

31. That upon conclusion of its use, Pennsylvania Department of Transportation, at its sole cost and expense, remove the rail-highway crossing, highway approaches, all warning devices, and fence with gate from the temporary crossing of the Upper Merion and Plymouth Railroad Company; all material removed including warning devices to become the property of Pennsylvania Department of Transportation.

32. That while they are in place, Upper Merion and Plymouth Railroad Company upon approaching the fence gate across its tracks at the temporary at-grade crossing of the entrance ramp to I-476, open the gates, proceed through the crossing and then close the gates, for each and every movement of its train through the crossing.

33. That upon completion of the improvement and its opening to public use, County of Montgomery, at its initial cost and expense, furnish all material and do all work to maintain and pay for the electrical energy cost for the highway lighting system on the Matsonford Bridge and highway approaches.

34. That upon completion of the improvement and its opening to public use, the Borough of Conshohocken and the Borough of West Conshohocken, each respectively, pay to the County of Montgomery 40% of the actual cost of furnishing material and performing work to maintain and pay for the electric energy cost for the highway lighting system on the Matsonford Bridge and highway approaches.

35. That upon completion of the improvement and its opening to public use, Borough of Conshohocken and Borough of West Conshohocken, each respectively, at its sole cost and expense, maintain the curbs and sidewalk on the highway approaches to the Matsonford Bridge in a safe and satisfactory condition.

36. That upon completion of the improvement and its opening to public use, the Borough of West Conshohocken, at its sole cost and expense, maintain the superstructure of the new bridge and Access Road No. 1.

37. That upon completion of the improvement and its opening to the public, the Borough of Conshohocken, at its sole cost and expense, maintain Access Road No. 2.

38. That upon completion of the improvement and its opening to public use, Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and do all work to maintain the remainder of the Matsonford Bridge and highway approaches thereto, including snow and ice removal but excluding the highway lighting system, maintenance assigned to the railroads and boroughs, all in a safe and satisfactory condition.

39. That the Exceptions of the Pennsylvania Department of Transportation are granted.

40. That all other Exceptions are denied.

41. That except as herein modified, the Recommended Decision of ALJ Klovekorn is adopted as the decision of this Commission.

42. That the Commission's Bureau of Safety and Compliance shall monitor this proceeding during the construction phase and shall summarize final construction costs.

43. That this order insofar as it places the cost of the improvement on various parties is without prejudice to their rights to recover the said costs from others in accordance with any lawful agreements.

BY THE COMMISSION,



Jerry Rich  
Secretary

(SEAL)

ORDER ADOPTED: July 11, 1985

ORDER ENTERED: DEC 4 1985

*E. Clerk*  
*7/11/85*  
*JR*

MOTION OF COMMISSIONER BILL SHANE

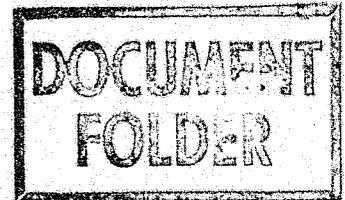
RE: Department of Transportation of the Commonwealth of Pennsylvania v. Reading Company, Debtor, Borough of Conshohocken, Borough of West Conshohocken and County of Montgomery.

C-19707  
JUL-85-ALJ-115

I recommend that the Exceptions filed by PennDOT be granted inasmuch as the ALJ does assign certain maintenance responsibility to the Boroughs of Conshohocken and West Conshohocken in his Recommended Decision under the Discussion portion, Subsection F - Maintenance of Facilities. In addition, Ordering Paragraph #9 should be amended to reflect the agreement entered into between SEPTA and PennDOT.

THEREFORE, I MOVE:

1. That the Exceptions of PennDOT be granted.
2. That OSA prepare the appropriate Order.



Dated: \_\_\_\_\_

*7/10/85*

*Bill Shane*

Bill Shane  
Commissioner

*SC*

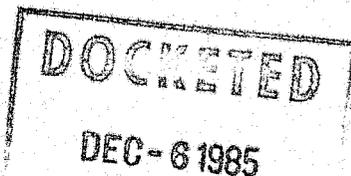


COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P. O. BOX 3265, HARRISBURG, Pa. 17120

December 4, 1985

IN REPLY PLEASE  
REFER TO OUR FILE  
C-00019707

James L. Price  
Recorder of Deeds  
Courthouse  
Norristown, PA 19404



Department of Transportation of  
the Commonwealth of Pennsylvania

v.

Consolidated Rail Corporation, Southeastern Pennsylvania  
Transportation Authority, Upper Merion and Plymouth Rail-  
road Company, Boroughs of Conshohocken and West Conshohocken,  
Plymouth Township, Montgomery County, The Bell Telephone  
Company of Pennsylvania, Philadelphia Suburban Water Company,  
and Philadelphia Electric Company

Dear Sir:

Enclosed, herewith, is a certified copy of an excerpt  
of the Commission order of July 11, 1985, in the  
above case, appropriating certain lands in the County of  
Montgomery, said lands being described  
by metes and bounds.

The provisions of Section 409 (d) of the Public Utility  
Law of 1937, P. L. 1053, as amended by Act. No. 388, approved  
on May 25, 1945, require that:

"The Commission shall file with the recorder of deeds  
of the proper county, a copy of that portion of the  
order of the Commission which appropriates such property  
and such plans and other detailed information as the  
Commission may deem necessary. Such portion of the  
Commission's order dealing with the specific property  
appropriated shall be recorded and indexed under the  
name or names of the record owners of such specific  
property at the expenses of the utility or  
utilities, political subdivisions, municipality or  
municipalities, governmental agency, including the  
Department of Transportation and Public Utility Commission,  
corporation or persons upon whose instigation, petition  
or complaint the said crossing was constructed,  
reconstructed, relocated, altered or abolished, as may  
be ordered to bear such expense of recording by the  
Commission; Provided that when such appropriation

C-00019707

of real property has been recorded under the provisions of any other statute, such recording shall not be duplicated under the terms of this section."

You will note that the enclosed excerpt of the Commission order designated the Pennsylvania Department of Transportation as the party responsible for the costs of recording. Consequently, your bill or statement billed in the name of and for the recording fee should be directed to the Pennsylvania Department of Transportation, Harrisburg, PA so that payment may be made promptly.

Kindly advise at your earliest convenience the date of recording and the volume and page at which this order is recorded in your records, and return to the Commission.

Very truly yours,



Jerry Rich  
Secretary

fao  
Enclosure  
Receipt Requested  
Certified Mail

Edward S. Sacks  
Attorney

**Bell of Pennsylvania**

Law Department  
One Parkway, 16th Floor  
Philadelphia, Pennsylvania 19102  
Phone (215) 466-8714

December 18, 1985

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

**RECEIVED**

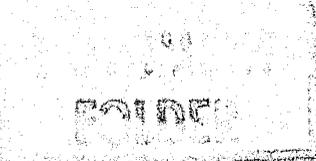
DEC 19 1985

PennDOT v. ConRail, et al.  
Complaint Docket No. C-00019707 SECRETARY'S OFFICE  
Public Utility Commission

Dear Mr. Rich:

Enclosed herewith for filing with the Commission are the original and three true copies of Respondent, The Bell Telephone Company of Pennsylvania's Petition for Reconsideration of the Commission's Order Entered December 4, 1985, in the above matter.

Very truly yours,



*Edward S. Sacks*

Edward S. Sacks

encs.

cc: Hon. Joseph J. Klovekorn, ALJ (w/enc.)  
All Parties of Record (w/enc.)

RECEIVED

DEC 19 1985

Before The  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SECRETARY'S OFFICE  
Public Utility Commission

DEPARTMENT OF TRANSPORTATION OF THE  
COMMONWEALTH OF PENNSYLVANIA,

Complainant,

v.

CONSOLIDATED RAIL CORPORATION, et al.,

Respondents.

:  
:  
:  
:  
: COMPLAINT DOCKET  
: NO. C-00019707  
:  
:  
:

DOCKETED

DEC 23 1985

FOLDER

---

RESPONDENT THE BELL TELEPHONE COMPANY OF PENNSYLVANIA'S  
PETITION FOR RECONSIDERATION OF THE PENNSYLVANIA PUBLIC  
UTILITY COMMISSION'S ORDER ENTERED DECEMBER 4, 1985

---

EDWARD S. SACKS

Attorney for Respondent,

THE BELL TELEPHONE COMPANY  
OF PENNSYLVANIA

One Parkway  
Philadelphia, PA 19102

Respondent, The Bell Telephone Company of Pennsylvania ("Bell"), by its undersigned attorney, hereby petitions the Pennsylvania Public Utility Commission (the "Commission") for reconsideration of its Order entered December 4, 1985, in the instant matter, on the grounds set forth below:

1. The Initial Decision of Administrative Law Judge Joseph J. Klovekorn (the "ALJ") in the instant matter ordered Bell to bear 100% of its relocation costs. The rationale which the ALJ employed for this allocation was that Bell's occupancy of the public right-of-way was such a benefit that it, in effect, overshadowed the result that would otherwise obtain by considering the other factors set forth in Application of the City of Wilkes-Barre, A-101606 (1981). Bell excepted to the ALJ's allocation of costs and his exclusive reliance on the "benefits of public occupancy" rationale.

2. Bell also excepted to the Initial Decision on the ground that in the particular type of federally funded project involved, federal funds granted for utility relocation will be in addition to, and will not take away from, funds that otherwise can be used for the physical bridge construction. Bell argued, and continues to urge, that the presence of 80% federal funding for this project is a factor which should receive due consideration.

3. The Commission adopted its Order in the instant matter on July 11, 1985. In its Order, the Commission did not acknowledge or make any explicit determination about the Exceptions filed by Bell. However, the Commission did Order Bell to bear 100% of its costs (Ordering Paragraph 24).

4. Page 5 of the Commission's Order makes clear that its basis for requiring the utilities to shoulder the entire cost of relocation is that they have used public right-of-way in the past. Thus, the Order stated:

"It is undisputed that some of PECO's gas facilities have been attached to the Matsonford Bridge since the early 1930's. Thus, PECO has had free use of said right-of-way for over 54 years. We do not believe it is unreasonable or inappropriate for PECO, under the circumstances of this case, to bear the cost of relocating its facilities which are within public right-of-way."

5. Subsequent to the date the Order in this proceeding was adopted, but before the Order was entered, the Commission adopted an Order in Borough of Ashley v. ConRail, et al., C-812687 (November 26, 1985) ("Ashley Borough"), based on the Motion of Commissioner Fischl, appended hereto as Appendix "A". In that Motion, Commissioner Fischl expressed the view that 100% allocation of relocation costs to utilities based on the benefits of occupancy of public right-of-way

"revert[s] back to the previously held common law rule that non-transportation utilities were not entitled to relocation costs. I feel this conclusion of law needs to be replaced by one which reflects the 1963 amendment to the Code."

6. In the instant case, too, the relocation costs were assessed upon the utilities on the basis of benefits received under the common law rule of highway occupancy. Accordingly, Ordering paragraph 24 herein should be modified, and brought into conformity with the Commission's policy adopted in Ashley Borough.

7. For the reasons expressed at paragraph 2 hereof, and explained more fully in Bell's Exceptions at pages 3 through 5, Bell respectfully urges the Commission to allocate 80% of its relocation costs to PennDOT.

Respectfully submitted,

Edward S. Sacks

EDWARD S. SACKS

Attorney for Respondent,

THE BELL TELEPHONE COMPANY  
OF PENNSYLVANIA

One Parkway  
Philadelphia, PA 19102

DATED: December 18, 1985

Public Meeting of November 27, 1985

MOTION OF COMMISSIONER FRANK FISCHL

RE: BOROUGH OF ASHLEY v. CONSOLIDATED RAIL CORPORATION, POCONO NORTHEAST RAILWAY, INC., PENNSYLVANIA DEPARTMENT OF TRANSPORTATION AND LUZERNE COUNTY  
C-812687  
NOV-85-ALJ-220

This proceeding involves the Main Street Bridge which crosses over railroad tracks in Ashley Borough, Luzerne County. The Administrative Law Judge (ALJ) has issued a Recommended Decision allocating costs to the parties involved in this case.

The ALJ, in his discussion, adheres to Section 2704(a) of the Public Utility Code (as amended in 1963) which, in general, states that allocation of costs is a matter within the Commission's authority as fact finder. The ALJ goes on to state that the Commission is not bound by any fixed rule and takes all relevant facts into consideration. However, in Conclusion of Law #5 it appears that the ALJ has reverted back to the previously held common law rule that non-transportation utilities were not entitled to relocation costs. I feel this conclusion of law needs to be replaced by one which reflects the 1963 amendment to the Code.

Further, I am concerned with the allocation of 100% of the incurred costs to Bell Telephone Company of Pennsylvania (Bell) and Pennsylvania Gas and Water Company (PG&W). I am fully in agreement with the ALJ assessing 100% for the improvement of the facilities to each utility or 61% of the total costs of Bell and 63% of the total cost of PG&W. However, when one looks at the factors this Commission normally considers in allocating costs to the non-transportation utilities, I find it difficult to allocate 100% to any party.

All parties have benefitted to some extent. The non-transportation utilities are not responsible for the project being undertaken which is for the benefit of the travelling public. Accordingly, I do not feel that Bell and PG&W should have to pay 100% of the remaining costs. I am recommending that these utilities be ordered to pay for the improvements to their facilities plus 75% of the remaining costs incurred or approximately \$10,900 for Bell and \$11,406 for PG&W.

THEREFORE, I MOVE:

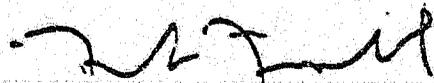
1. That Conclusion of Law #5 be replaced by the following:

The Commission has the authority to assess costs upon the concerned public utilities, municipal corporations or the Commonwealth of Pennsylvania, as it shall determine.

2. That the non-transportation utilities each be assessed fully for the improvement to its facility, as discussed by the ALJ at page 22 of the recommended decision, and 75% of the remaining costs incurred by each company.
3. That the Office of Special Assistants prepare the appropriate order.

NOVEMBER 26, 1985

DATE



FRANK FISCHL  
COMMISSIONER

---

CERTIFICATE OF SERVICE

---

I hereby certify that I have this day served the foregoing document upon all parties in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Dated at Philadelphia, Pennsylvania, this eighteenth day of December 1985.

Edward S. Sacks

EDWARD S. SACKS

Attorney for Respondent,

THE BELL TELEPHONE COMPANY  
OF PENNSYLVANIA

One Parkway  
Philadelphia, PA 19102

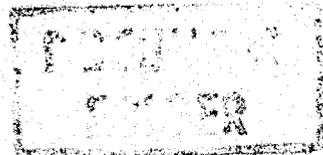
PHILADELPHIA ELECTRIC COMPANY

2301 MARKET STREET

P.O. BOX 8699

PHILADELPHIA, PA. 19101

(215) 841-4000



EDWARD G. BAUER, JR.  
VICE PRESIDENT  
AND GENERAL COUNSEL

EUGENE J. BRADLEY  
ASSOCIATE GENERAL COUNSEL

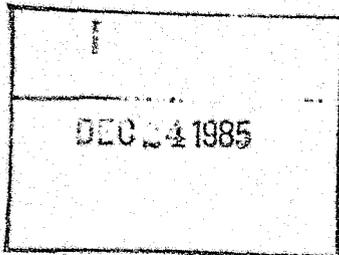
DONALD BLANKEN  
RUDOLPH A. CHILLEM  
E. C. KIRK HALL

T. H. MAHER CORNELL  
PAUL AUERBACH

ASSISTANT GENERAL COUNSEL  
EDWARD J. CULLEN, JR.

THOMAS H. MILLER, JR.

IRENE A. MCKENNA  
ASSISTANT COUNSEL



December 19, 1985

RECEIVED

DEC 23 1985

SECRET  
Public Utility Commission

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

RE: PennDOT v. ConRail, et al.  
Complaint Docket No. C-00019707

Dear Mr. Rich:

The Philadelphia Electric Company is in receipt of Bell Telephone Company's Petition for Reconsideration of the Commission's Order Entered for December 4, 1985 for the above-captioned matter. The Philadelphia Electric Company request your Honorable Commission to permit Philadelphia Electric Company to join in the Bell Telephone Company's Petition for Reconsideration in this case.

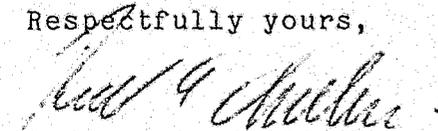
The Philadelphia Electric Company's request for Reconsideration of the Commission's Order is identical to that stated in Bell's Petition and request is hereby made to have the Commission make an award of relocation costs in favor of Philadelphia Electric Company in some degree for the cost of relocating its facilities located in the public right-of-way.

In addition thereto, it is the position of the Philadelphia Electric Company that the denial of relocation costs based upon the past and future occupancy of the public right-of-way is impermissible because the effect of future occupancy of the public right-of-way should not be taken into account until the issue of relocation costs arises in a future hearing. Occupancy of the public right-of-way should not be considered prospectively, but only retrospectively.

Jerry Rich, Secretary  
Page 2  
December 19, 1985

Under the circumstances, Philadelphia Electric Company requests your Honorable Commission to reconsider its Order in this case so as to permit some degree of reimbursement for the relocation of facilities located in the public right-of-way.

Respectfully yours,

  
Rudolph A. Chillemi

RAC:fjs

cc: E. J. Silver

cc: To all Parties of Record

December 19, 1985

C-00019707

Department of Transportation of the  
Commonwealth of Pennsylvania

v.

Consolidated Rail Corporation, Southeastern Pennsylvania Transporta-  
tion Authority, Upper Merion and Plymouth Railroad Company, Boroughs  
of Conshohocken and West Conshohocken, Plymouth Township, Montgomery  
County, The Bell Telephone Company of Pennsylvania, Philadelphia  
Suburban Water Company and Philadelphia Electric Company

Loretta D. Bradbury, Deputy  
Recorder of Deeds  
Montgomery County  
Courthouse  
Norristown, Pennsylvania 19404

Dear Madam:

Receipt is acknowledged of your letter of December 12,  
1985 stating the cost of recording the excerpt of the Commission's  
order of July 11, 1985 and requesting that the check be made payable  
to Recorder of Deeds.

Please be advised that the December 4, 1985 letter sent  
to James L. Price, Recorder of Deeds of Montgomery County states on  
Page 2 that Department of Transportation is the party responsible for  
the cost of recording.

Therefore, your bill should be directed to Department of  
Transportation for payment, not the Public Utility Commission.  
Further, the address of the Department of Transportation's maintenance  
district involved in connection with this case is:

PennDOT Maintenance District 6-4  
Markely Street and Boro Line  
Norristown, Penna. 19404

and you may send your cost of recording bill to the above-named district.

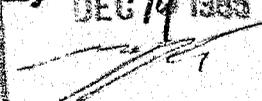
For their information, a copy of this letter is being  
sent to PennDOT's Maintenance District 6-4.

Very truly yours,

for JERRY RICH  
Secretary

cc: PennDOT Maintenance District 6-4  
Markely Street and Boro Line  
Norristown, Penna. 19404

HHH:mpk

DOCKETED  
DEC 19 1985  


FROM THE DESK OF



LORETTA D. BRADBURY  
NORRISTOWN, PENNSYLVANIA

RECEIVED

12-10-85

Dear Sir,

DEC 13 1985

SECRETARY  
PUBLIC UTILITY COMMISSION

The cost to record file:

C-00019707

will be \$27.50 - make  
check payable to Recorder of Deeds.

Thank you,

Loretta D. Bradbury  
Deputy

Recorder of Deeds  
Montgomery County  
Norristown, Pa. 19404

**ORIGINAL**

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Harrisburg, PA 17120



Office of Chief Counsel  
January 9, 1986

IN REPLY REFER TO

**RECEIVED**

**JAN 9 1986**

**SECRETARY'S OFFICE  
Public Utility Commission**

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

Re: C-00019707  
Consolidated Rail Corporation, et al.

Dear Mr. Rich:

Enclosed please find original and two (2) copies of Answer of the Pennsylvania Department of Transportation to the Petition of the Bell Telephone Company of Pennsylvania for Reconsideration of the Order Adopted July 11, 1985, Entered December 4, 1985 filed in the above entitled matter.

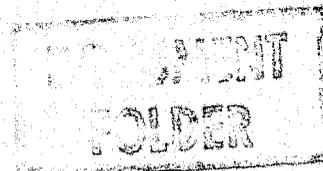
I hereby certify that a copy has been served on the parties of record in this case.

Very truly yours,

Stephen F. J. Martin  
Assistant Counsel

220/SFJM/mvh  
787-6485

Enclosures



cc: W. J. Clements, P. E.  
District 6-0  
Parties of Record - Page 2 & 3

Jerry Rich, Secretary  
C-00019707  
January 9, 1986  
Page 2

PARTIES OF RECORD

Daniel F. Donovan, General Attorney  
Consolidated Rail Corporation  
1138 Six Penn Center Plaza  
Philadelphia, Pennsylvania 19103

John J. Gallagher  
Assistant Counsel  
Pennsylvania Public Utility Commission  
Law Bureau  
P. O. 3265  
Harrisburg, Pennsylvania 17120

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

Bernard A. Moore, Solicitor  
Borough of Conshohocken  
3038 Butler Pike  
Conshohocken, Pennsylvania 19428

Edward S. Sacks, Esquire  
Bell Telephone of Pennsylvania  
1 Parkway  
Philadelphia, Pennsylvania 19102

Mark J. Kropilak, Esquire  
Philadelphia Suburban Water Company  
762 Lancaster Avenue  
Bryn Mawr, Pennsylvania 19010

Frederic M. Wentz, Solicitor  
County of Montgomery  
Courthouse  
Norristown, Pennsylvania 19404

Jerry Rich, Secretary  
C-00019707  
January 9, 1986  
Page 3

PARTIES OF RECORD (cont'd)

Douglas P. Humes, Esquire  
Reading Company  
Reading Center  
Philadelphia, Pennsylvania 19107

Joseph I. Hallman, Esquire  
Upper Merriam & Plymouth Railroad Company  
P. O. Box 404  
Conshohocken, Pennsylvania 19428

Edward H. Huss, Esquire  
Southeastern Pennsylvania Transportation Authority  
130 South 9th Street  
5th Floor  
Philadelphia, Pennsylvania 19107

Arthur Lefko, Solicitor  
Plymouth Township  
515 Swede Street  
Norristown, Pennsylvania 19401

Rudolph A. Chillemi, Esquire  
Philadelphia Electric Company  
2301 Market Street  
Philadelphia, Pennsylvania 19101

RECEIVED

JAN 13 1986

Before The  
PENNSYLVANIA PUBLIC UTILITY COMMISSION SECRETARY'S OFFICE  
Public Utility Commission

DEPARTMENT OF TRANSPORTATION :  
OF THE COMMONWEALTH OF :  
PENNSYLVANIA, :

Complainant :

v. :

CONSOLIDATED RAIL CORPORATION, :  
et al., :

Respondents :

COMPLAINT DOCKET

NO. C-00019707

JAN 13 1986

ANSWER OF THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION  
TO THE PETITION OF THE BELL TELEPHONE COMPANY OF  
PENNSYLVANIA FOR RECONSIDERATION OF THE ORDER  
ADOPTED JULY 11, 1985, ENTERED DECEMBER 4, 1985

MENT  
FOLDER

COMES NOW, the Commonwealth of Pennsylvania, Department of Transportation, by its attorney, Stephen F. J. Martin, Esquire, and makes Answer to the Petition of the Bell Telephone Company of Pennsylvania for Reconsideration of the Commission's Order adopted July 11, 1985, entered December 4, 1985, as follows:

1. Admitted in part; denied in part. It is admitted that the Administrative Law Judge in his Initial Decision recommended that Bell Telephone Company of Pennsylvania (Bell) bear 100% of its relocation costs. It is denied that the Administrative Law Judge relied exclusively on a "benefits of public

occupancy" rationale. The Administrative Law Judge and the Commission considered all the relevant factors delineated in Application of the City of Wilkes-Barre, Docket No. A-101606 (1981), under which the benefit to the utility and its ratepayers from the location of facilities within public right of way is a consideration.

2. Denied. It is specifically denied that Bell timely excepted to the Initial Decision of the Administrative Law Judge. It is denied that use of federal funds for utility relocation does not diminish funds available for bridge construction. Federal funds constitute a limited source of money available for bridge reconstruction. Use of federal funds to reimburse non-carrier utility relocation costs in any improvement project necessarily diminishes the remainder available for other bridge construction and reconstruction projects. It is denied that the availability of federal funding was not given due consideration by both the Administrative Law Judge and the Commission.

3. Denied. The Commission, in footnote 2 on page 3 of its Opinion and Order specifically noted that Bell's exceptions were not timely filed, and were not accompanied by a petition for waiver of the filing requirements. The Commission expressly declined to sua sponte waive the regulation for timely filing, and explicitly refused to consider Bell's exceptions. In addition, the issues raised in Bell's exceptions were not significantly

different from those raised by Philadelphia Electric Company. Had Bell's excepting raised issues of significant merit, the Commission would undoubtedly have waived the untimely filing and considered the exceptions.

4. Denied. The Order does not in fact require all noncarrier utilities to shoulder 100% of their relocation costs. The order directs the Department shall reimburse 60% of the relocation costs of Philadelphia Electric Company and 20% of the relocation costs of the Philadelphia Suburban Water Company. It is denied that the sole basis for ordering noncarrier utilities to bear some or all of their own relocation costs was benefit from the occupancy of public right of way. In the same paragraph quoted in Bell's Petition for Reconsideration, the Commission states:

We are of the opinion that the ALJ has properly considered the pertinent factors such as: (1) the benefit received by the ratepayers of the particular utility; (2) the availability of state and/or federal funding; (3) the placing of the costs upon the party responsible; and (4) the equities of a particular situation. . . . Giving due consideration to all of the factors involved, we conclude that the ALJ's recommendations with respect to PECO's costs are appropriate and, accordingly, the exceptions of PECO are also denied.

5. Denied. It is specifically denied that the Commission's action in Borough of Ashley v. Conrail, et al., Docket No. C-812687, at public meeting on November 27, 1985 constitutes controlling precedent in the instant case. No order in the Borough of Ashley has been entered as of this date; any policy or rationale underlying the action taken cannot be known without entry of the Commission's Opinion and Order.

It is also specifically denied that in the motion of Commissioner Fischl the Commissioner expressed the view that 100% allocation of relocation costs to utilities reverted back to the common law rule. Commissioner Fischl's motion states:

In Conclusion of Law No. 5 it appears that the ALJ has reverted back to the previously held common law rule that non-transportation utilities were not entitled to relocation costs. I feel this conclusion of law needs to be replaced by one which reflects the 1963 amendment to the Code.

Conclusion of Law No. 5 recommended by the ALJ stated:

Non-transportation public utilities must bear expense of relocating their facilities when relocation is brought about by governmental exercise of police power such as in construction, relocation, alteration, protection or abolition of a highway-rail crossing.

That conclusion of law was an incorrect statement of the law, and Commissioner Fischl's motion recommended that that conclusion be replaced by the following:

The Commission has the authority to assess costs upon the concerned public utilities, municipal corporations or the Commonwealth of Pennsylvania, as it shall determine." (Emphasis added).

Insofar as the Initial Decision in Borough of Ashley was founded on an incorrect conclusion of law, the Commission reconsidered the factors relevant to allocation of the noncarrier utility relocation costs and allocated 75% of those costs to the utility companies. That the Commission did not allocate 100% of those costs to the utilities does not establish any policy that it could not. The Commission clearly enjoys discretion to allocate from 0% to 100% of the relocation costs of noncarrier utility companies based on the criteria previously established in the Application of the City of Wilkes-Barre, supra.

6. Denied. It is denied that the relocation costs were assessed upon the utilities on the basis of the benefit received under the common law rule of highway occupancy. The order makes clear that all the appropriate factors under Wilkes-Barre were considered by the Administrative Law Judge, and have been considered also by this Commission. Accordingly, no reconsideration or modification of the Commission's order is necessary. It

is specifically denied that the Commission's action in Ashley Borough, constitutes the adoption of any policy inconsistent with that applied in the instant case.

7. Denied. It is denied that any of Bell's relocation costs should be allocated to the Department. In addition it is noted that consideration of any explanation contained in Bell's Exceptions should not be considered. Bell's petition to the Commission for reconsideration was not accompanied by copies of Bell's Exceptions, and any argument therein should not be considered. As previously noted, Bell's exceptions to the Initial Decision of the Administrative Law Judge were untimely filed, without request for waiver of the filing requirements, and were previously dismissed by this Commission.

WHEREFORE, the Commonwealth of Pennsylvania, Department of Transportation, respectfully requests the Petition of the Bell Telephone Company of Pennsylvania for Reconsideration of the Order Adopted July 11, 1985, Entered December 4, 1985, be denied.

Respectfully submitted,



Stephen F. J. Martin  
Assistant Counsel  
Office of Chief Counsel  
Department of Transportation  
Commonwealth of Pennsylvania  
Harrisburg, Pennsylvania 17120  
(717) 787-6485



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

January 27, 1986

IN REPLY PLEASE  
REFER TO OUR FILE

C-00019707

James L. Price  
Recorder of Deeds  
Court House  
Norristown, Penna. 19404

Dear Sir:

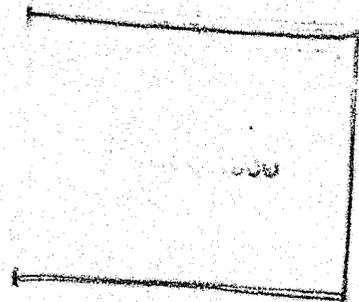
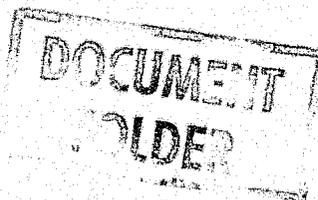
Receipt is acknowledged of the certified copy of the excerpt of the Commission's Order of July 11, 1985, issued in the above proceeding, with a notation thereon that it has been recorded in Deed Book Vol. 4789, Page 2281, in the Office of the Recorder of Deeds of Montgomery County on January 15, 1986.

Very truly yours,

for Jerry Rich  
Secretary

cc: Herbert G. Zahn, Assistant Attorney General  
Penna. Dept. of Transportation  
522 Transportation & Safety Building  
Harrisburg, Penna. 17120

JEP:rmb



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Harrisburg, Pennsylvania 17120  
Office of Chief Counsel



January 10, 1986

IN REPLY REFER TO

**RECEIVED**

**JAN 27 1986**

**SECRETARY'S OFFICE**  
**Public Utility Commission**

James L. Price  
Recorder of Deeds  
Court House  
Norristown, Pennsylvania 19404

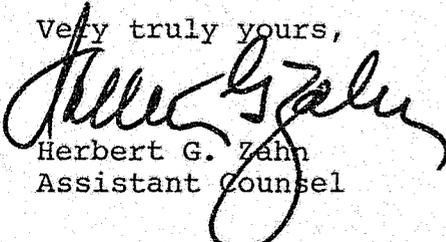
Re: PUC C-00019707  
Montgomery County

Dear Mr. Price:

Enclosed please find the check in the sum of \$27.50 for recording in the above matter.

When the document is recorded, please return the recorded instrument to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, Pennsylvania 17120, Attention: Mr. Jerry Rich, Secretary.

Very truly yours,

  
Herbert G. Zahn  
Assistant Counsel

220/HGZ/mvh  
(717) 787-5931

Enclosure

INTER-DEPARTMENT CORRESPONDENCE

TO	<i>Recorder of Deeds</i>	DATE <i>12/10/85</i>
FROM	<i>Account &amp; Charge</i>	
SUBJECT	<i>PUC</i>	

*Please record and index by name only.*

**RECEIVED**

**JAN 27 1986**

**SECRETARY'S OFFICE  
Public Utility Commission**

REALTY TRANS. TAX PAID	
STATE	_____
LOCAL	_____
PER	<i>JB</i>

*P*

PENNSYLVANIA PUBLIC UTILITY COMMISSION

COMMONWEALTH OF PENNSYLVANIA, SS:

*27.00  
.50*

I, Joanne Rossi, Assistant Secretary of the Pennsylvania Public Utility Commission, do hereby certify that the attached is a full, true and correct copy of an excerpt of the Commission Order, dated July 11, 1985, in the matter of the Application of the Department of Transportation of the Commonwealth of Pennsylvania v. Consolidated Rail Corporation, Southeastern Pennsylvania Transportation Authority, Upper Merion and Plymouth Railroad Company, Boroughs of Conshohocken and West Conshohocken, Plymouth Township, Montgomery County, The Bell Telephone Company of Pennsylvania, Philadelphia Suburban Water Company, and Philadelphia Electric Company, and the allocation of the costs and expenses incident thereto (Complaint Docket No. 00019707); as same remains of record and on file in this office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the seal of Pennsylvania Public Utility Commission to be affixed, this FOURTH day of DECEMBER, 1985.

*Joanne Rossi*  
Assistant Secretary

PENNSYLVANIA PUBLIC UTILITY COMMISSION

BOOK 4789-2281

000829

JAN 15 12 31 PM '86

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,

BOOK 4789-2282

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.

BOOK 4789-2283

Record Owner

Southeastern Pennsylvania Transportation Authority  
c/o Edward H. Huss, Esquire  
5th Floor  
130 South 9th Street  
Philadelphia, PA 19107

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 Conshohocken, Montgomery County, bounded and described as follows:

AERIAL EASEMENT AND SURFACE EASEMENT

PARCEL "A"

BEGINNING at a point located forty feet left and perpendicular to Station 140+63.00 of the L.R. 46140, Section A00 R/W Baseline; thence South  $67^{\circ}40'34.5''$  East, a distance of 15.40 feet to a point, said point being the north-westerly Legal Right-of-Way Line of L.R. 46140, a.k.a. Fayette Street, fifty feet width; thence along the said existing Legal Right-of-Way Line of Fayette Street, South  $35^{\circ}27'28''$  West, a distance of 128.50 feet to a point; thence leaving the Legal Right-of-Way Line, along a line curving to the right, with a radius of 275.00 feet, an arc distance of 15.52 feet, said line having a chord bearing North  $69^{\circ}28'25''$  West and chord distance of 15.52 feet, to a point; thence North  $35^{\circ}27'28''$  East, a distance of 129.00 feet, to a point and the place of BEGINNING.

Containing 1931.25 square feet of aerial easement right-of-way, which includes 720.00 square feet of surface easement for bridge piers and appurtenances.

PARCEL "B"

BEGINNING at a point located forty feet right and perpendicular to Station 140+81.00 of the L.R. 46140, Section A00 R/W Baseline; thence South  $35^{\circ}27'28''$  West, a distance of 109.00 feet; thence along a line curving to the right

with a radius of 302.00 feet, an arc distance of 16.77 feet, said line having a chord bearing North 81°06'26.3" West and a chord distance of 16.77 feet, to a point, said point being on the southeasterly Legal Right-of-Way Line for L.R. 46140, a.k.a. Fayette Street, fifty feet width, thence along the Legal Right-of-Way Line of Fayette Street, North 35°27'28" East, a distance of 110.00 feet to a point; thence leaving the Legal Right-of-Way Line, South 77°58'15.7" East, a distance of 16.35 feet to a point and the place of BEGINNING.

Containing 1635.00 square feet of Aerial Easement Right-of-Way, which includes 585.00 square feet of surface easement for bridge piers and appurtenances.

PARCEL "C"

BEGINNING at a point located forty feet left and perpendicular to Station 139+61.00 of the L.R. 46140, Sec. A00 R/W Baseline; thence North 35°27'28" East, a distance of 42.00 feet to a point; thence along a line curving to the left with a radius of 305.00 feet, an arc distance of 15.40 feet, said line having a chord bearing South 67°40'34.5" East and a chord length of 15.40 feet, to a point, said point being on the northwesterly Legal Right-of-Way Line of L.R. 46140, a.k.a. Fayette Street, fifty feet width; thence along the said Legal Right-of-Way Line of Fayette Street, South 35°27'28" West, a distance of 46.00 feet; thence leaving the existing Fayette Street Legal Right-of-Way Line, North 52°37'59.1" West, a distance of 15.01 feet to a point and the place of BEGINNING.

Containing 660.00 square feet of Aerial Easement Right-of-Way.

The above tract of land is a portion of real estate which became legally vested in the South-eastern Pennsylvania Transportation Authority from Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond, and John H. McArthur, Trustees, by Deed Recorded November 1, 1978, in Deed Book Volume 4357, Page 156 in the Recorder of Deeds Office for Montgomery County.

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°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°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°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.

6. 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 railroad owners of the said property, grantor, and the Borough of Conshohocken, Montgomery County, grantee, at the sole cost and expense of the Borough of Conshohocken.

Record Owner

Southeastern Pennsylvania Transportation Authority  
c/o Edward H. Huss, Esquire  
5th Floor  
130 South 9th Street  
Philadelphia, PA 19107

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 Conshohocken, Montgomery County, bounded and described as follows:

PARCEL "A"

BEGINNING at the point of intersection for the Legal Right-of-Way lines for the northwest side of Fayette Street (50' wide) and the southwest side of Old Canal Street (19' wide), said point also being located 17 feet southwest and radial from plan Station 299+96 of Access Road No. 2; thence along the northwest side of Fayette

Street, South  $35^{\circ}27'28''$  West, a distance of 12.40 feet to a point on the required R/W line of Access Road No. 2; thence along the required R/W line of Access Road No. 2 by a curve to the right having a radius of 306.48 feet, an arc distance of 14.99 feet, said line also having a chord bearing of North  $69^{\circ}09'33.5''$  West, a distance of 14.99 feet to a point on the required R/W line of Access Road No. 2; thence continuing along the required R/W line of Access Road No. 2, the following courses and distances: South  $35^{\circ}27'28''$  West, a distance of 41.40 feet to a point; thence North  $53^{\circ}15'06.9''$  West, a distance of 59.17 feet to a point; thence North  $34^{\circ}52'41.7''$  East a distance of 34.00 feet to a point, said point being located 20 feet to the left and radial from Station 300+69; thence along a curve to the right, having a radius of 306.48 feet, an arc distance of 30.29 feet, having a chord bearing of North  $52^{\circ}17'21.7''$  West, a distance of 30.27 feet, to a point; thence North  $49^{\circ}27'34''$  West, a distance of 82.07 feet to a point; thence by a curve to the left having a radius of 165.00 feet, an arc distance of 55.85 feet, and a chord bearing of North  $59^{\circ}09'21.8''$  West, a distance of 55.58 feet to a point on the Southeast Legal R/W Line of Forrest Street Ramp; thence along the Southeast Legal R/W Line of Forrest Street Ramp, North  $35^{\circ}43'38.3''$  East, a distance of 15.46 feet to a point at the Southwest corner of Old Canal Street (19' wide); thence along the Legal R/W Line for Old Canal Street (19' wide) the following courses and distances: along a curve to the right, having a radius of 250.00 feet more or less, an arc distance of 44.43 feet, having a chord bearing South  $56^{\circ}38'40''$  East, a distance of 44.37 feet to a point; thence South  $49^{\circ}42'35.5''$  East, a distance of 94.14 feet to a point; thence by a curve to the left having a radius of 294.48 feet, an arc distance of 104.14 feet, having a chord bearing of South  $59^{\circ}35'24.6''$  East, a distance of 103.60 feet, to a point on the Northwest side of Fayette Street and the place of BEGINNING.

Containing 5,338 square feet, more or less.

PARCEL "B"

BEGINNING at a point, said point being offset 20 feet left and radial to Access Road No. 2 plan Station 303+08; thence crossing Access Road No. 2,

North  $53^{\circ}28'37.3''$  West, a distance of 73.96 feet to a point 20 feet right of Access Road No. 2 plan Station 303+65; thence continuing along the required R/W line for Access Road No. 2, by a curve, to the right, having a radius of 205.00 feet, an arc distance of 92.00 feet, having a chord bearing of North  $88^{\circ}38'24.6''$  East, a distance of 91.23 feet to a point on the Northwest legal R/W line of Forrest Street Ramp; thence along the Northwest legal R/W line of Forrest Street Ramp, South  $35^{\circ}31'58.9''$  West, a distance 56.02 feet to a point and the place of BEGINNING.

Containing 2400 square feet, more or less.

#### PARCEL "C"

BEGINNING at a point, said point being the Northeast corner of intersection of Legal Right-of-Ways for Forrest Street Ramp, and Old Canal Street; thence along the Northeast side of Forrest Street, North  $34^{\circ}42'51''$  East, a distance of 6.10 feet to a point on the Access Road No. 2 required R/W line; thence along a curve to the right having a radius of 205.00 feet, an arc distance of 11.72 feet, having a chord bearing of South  $62^{\circ}37'10.5''$  East, a distance of 11.72 feet to a point; thence South  $13^{\circ}01'52.9''$  West, a distance of 5.96 feet to a point on the Northeastern legal R/W line for Old Canal Street; thence along the Northeastern legal R/W line for Old Canal Street, on a curve to the left having a radius of 269.00 feet, an arc distance of 13.98 feet, having a chord bearing of North  $63^{\circ}44'34.3''$  West, a distance of 13.98 feet to a point on the Southeast R/W line of Forrest Street and the place of BEGINNING.

Containing 88 square feet, more or less.

The above tract of land is a portion of real estate which became legally vested in the Southeastern Pennsylvania Transportation Authority from Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond, and John H. McArthur, Trustees, by Deed Recorded November 1, 1978, in Deed Book Volume 4357, Page 156 in the Recorder of Deeds Office for Montgomery County.

7. That Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary to construct the improvement generally in accordance with the herein approved construction plans.