

Before the  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: :  
Department of Transportation : Complaint Docket  
of the Commonwealth of : No. 19707  
Pennsylvania, :  
Complainant :  
vs. :  
Reading Company, Debtor, :  
Borough of Conshohocken, :  
Borough of West Conshohocken :  
and County of Montgomery, :  
Respondents :

DUPLICATE RECORD.  
ORIGINAL CERTIFIED  
TO COMMONWEALTH COURT.

ORDER

(Subject to the Commission's Approval)

BY THE COMMISSION:

AND NOW, to wit, this day of , 1977,

it is hereby ORDERED as follows:

1. That PennDot's Letter Petition of June 17, 1977, Letter Petition requesting that depositions of James B. Chiles and James Vovakes be marked for identification as PennDot's Exhibit No. 6 and admitted into evidence is hereby granted.

2. That Commission Staff's Motion to Strike PennDot's Reply Brief of June 28, 1977, is hereby denied.

DOCKETED  
COMPLAINT DOCKET  
OCT 20 1977  
ENTRY No. *C*

*Rudolph S. Pallastrone*  
RUDOLPH S. PALLASTRONE  
ADMINISTRATIVE LAW JUDGE

DOCUMENT  
FOLDER

RECEIVED  
JUN 28 1977  
Secretary's Office  
Public Utility Commission

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DEPARTMENT OF TRANSPORTATION :  
OF THE COMMONWEALTH OF :  
PENNSYLVANIA, :  
Complainant :  
v. :  
READING COMPANY, BOROUGH OF :  
CONSHOHOCKEN, BOROUGH OF :  
WEST CONSHOHOCKEN, and :  
COUNTY OF MONTGOMERY, :  
Respondents :

DUPLICATE RECORD.  
ORIGINAL CERTIFIED  
TO COMMONWEALTH COURT.

Complaint Docket  
No. 19707

DOCKETED  
COMPLAINT DOCKET  
JUL 15 1977

H.

ANSWER TO REQUEST THAT DEPOSITIONS  
BE MARKED AS PENNDOT'S EXHIBIT NO. 6 AND  
ADMITTED INTO EVIDENCE

NOW comes Staff of the Pennsylvania Public Utility Commission, by its attorney, Candace N. Kreiger, and in answer to Paragraph 3 of the letter petition filed June 17, 1977 (Service Date June 21, 1977) by Pennsylvania Department of Transportation (PennDOT), requesting that the depositions of James B. Chiles and James Vovakes taken in relation to the captioned proceeding be marked for identification as PennDOT's Exhibit No. 6 and admitted into evidence, states the following:

1. PennDOT incorrectly alleges that its motion for admission

DOCUMENT  
FILED

of depositions into evidence is authorized by 1 Pa. Code §35.128.

1 Pa. Code §35.128 provides, in pertinent part:

"At the hearing, the . . . presiding officer may, if deemed advisable, authorize any participant to file documentary evidence as part of the record within a fixed time, expiring not less than ten days before the date fixed for filing and serving briefs." (Emphasis supplied)

PennDOT made no request at the March 10, 1977 hearing in this proceeding, for permission to file a late-filed exhibit and, therefore, received no authorization from the presiding officer to file additional evidence in accordance with 1 Pa. Code §35.128. Further, even if PennDOT had been granted permission by the presiding officer to file additional evidence, 1 Pa. Code §35.128 specifically requires such evidence to be filed not less than 10 days before the date fixed for filing and service of briefs, which in this case was on or about June 6, 1977.

2. 1 Pa. Code §35.151 specifically provides, inter alia:

"No part of a deposition shall constitute a part of the record in the proceeding, unless received in evidence by the agency head or presiding officer."

3. 1 Pa. Code §35.131 specifically provides, inter alia:

"After the closing of the record, there shall not be received in evidence or considered as part of the record, any document after the close of testimony."

4. PennDOT did not move to have the subject depositions admitted into evidence at the March 10, 1977 hearing in this pro-

ceeding and, therefore, is precluded from doing so now that the record is closed.

5. PennDOT's request that depositions be marked as PennDOT Exhibit No. 6 and admitted into the record is clearly contrary to the Rules of Administrative Practice and Procedure.

6. It would be highly prejudicial to the parties of record to permit PennDOT at this late date to submit into the record evidence which was clearly available at the time of the March 10, 1977 hearing in this proceeding and which PennDOT apparently neglected to offer into evidence.

7. PennDOT's request that the Commission extend the time within which briefs must be filed to within ten (10) days after receipt of the depositions, in order to permit all parties to review depositions before the filing of briefs, is clearly meaningless, since the time for filing of briefs expired on or about June 6, 1977, at which time the Staff of the Pennsylvania Public Utility Commission filed its brief in this proceeding.

8. PennDOT alleges no material changes of fact or law which have occurred since the conclusion of the March 10, 1977 hearing which would constitute grounds for reopening the proceeding. The depositions were available at the time of hearing and PennDOT cannot now be permitted to attempt to bolster its position by admitting additional evidence after the close of testimony and the filing of main briefs.

WHEREFORE, Staff of the Pennsylvania Public Utility Commission respectfully submits that the request by PennDOT that depositions be marked for identification as PennDOT's Exhibit No. 6 and admitted into evidence should be denied.

Respectfully submitted,

*Candace N. Kreiger*  
\_\_\_\_\_  
Candace N. Kreiger

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document, by first class postage prepaid upon all parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code §33.32. Service has been made upon the following:

Rudolph S. Pallastrone  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Lewis Tower Building  
15th and Locust Streets  
Philadelphia, Pennsylvania 19102

Robert W. Cunliffe, Deputy Attorney General  
Pennsylvania Department of Transportation  
Capital Associates Building  
Seventh and Forster Streets  
Harrisburg, Pennsylvania

Herbert G. Zahn, Assistant Attorney General  
Pennsylvania Department of Transportation  
Capital Associates Building  
Seventh and Forster Streets  
Harrisburg, Pennsylvania

Joel E. Mazor, General Attorney  
Six Penn Center Plaza  
Philadelphia, Pennsylvania 19104

Edward F. Kane, Esquire  
Bean, DeAngelis, Kaufman & Kane  
522 Swede Street  
Norristown, Pennsylvania 19401  
(for Borough of West Conshohocken)

Walter Phipps, Jr., Solicitor  
Borough of Conshohocken  
312 Fayette Street  
Conshohocken, Pennsylvania 19428

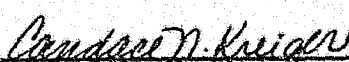
Sheldon Seligsohn, Attorney  
The Bell Telephone Company of Pennsylvania  
One Parkway  
Philadelphia, Pennsylvania 19102

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

Roger B. Reynolds, Solicitor  
County of Montgomery  
Courthouse  
Norristown, Pennsylvania 19404

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

Dated this 28th day of June, 1977.

  
\_\_\_\_\_  
Candace N. Kreiger

Of Counsel for  
Staff of the Pennsylvania Public Utility Commission

RECEIVED

JUN 28 1977

Secretary's Office  
Public Utility Commission

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

Complainant :

v. :

READING COMPANY, BOROUGH OF :  
CONSHOHOCKEN, BOROUGH OF :  
WEST CONSHOHOCKEN and COUNTY :  
OF MONTGOMERY, :

Respondents :

Complaint Docket

No. 19707

DUPLICATE RECORD.  
ORIGINAL CERTIFIED  
TO COMMONWEALTH COURT.

MOTION TO STRIKE

NOW comes the Staff of the Pennsylvania Public Utility Commission, by its attorney, Candace N. Kreiger, P. O. Box 3265, North Office Building, Harrisburg, Pennsylvania 17120, and moves the Commission to strike the Reply Brief of the Pennsylvania Department of Transportation filed on or about June 17, 1977 in this proceeding. In support thereof, the Staff states:

1. 52 Pa. Code §3.282(b) specifically provides:

"(b) Each party who has given notice of its intention to file a brief shall file its main brief with the Commission within 15 days after notice from the Commission that the transcript of testimony has been filed, and may file an answering brief within ten days after it has received the main briefs of all other such parties." (Emphasis supplied)

**DOCKETED**  
COMPLAINT DOCKET

JUL 15 1977

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FOLDER

H.

2. The time for filing of main briefs with the Commission in this proceeding expired on or about June 6, 1977, at which time the Staff was the only party to file a brief.

3. It is clearly contrary to the Rules of Practice and Procedure for PennDOT to file a reply brief without having filed a main brief in this proceeding.

4. It would be highly prejudicial to the Staff to permit PennDOT, the moving party in this proceeding, to file a reply brief, in opposition to the main brief filed by the Staff without having first set forth its position in a main brief to which the Staff would have had the opportunity to answer.

WHEREFORE, the Staff of the Pennsylvania Public Utility Commission respectfully requests that the Commission strike the Reply Brief of the Pennsylvania Department of Transportation filed in this proceeding.

Respectfully submitted,

*Candace N. Kreiger*  
\_\_\_\_\_  
Candace N. Kreiger

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document, by first class postage prepaid upon all parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code §33.32. Service has been made upon the following:

Rudolph S. Pallastrone  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Lewis Tower Building  
15th and Locust Streets  
Philadelphia, Pennsylvania 19102

Robert W. Cunliffe, Deputy Attorney General  
Pennsylvania Department of Transportation  
Capital Associates Building  
Seventh and Forster Streets  
Harrisburg, Pennsylvania

Herbert G. Zahn, Assistant Attorney General  
Pennsylvania Department of Transportation  
Capital Associates Building  
Seventh and Forster Streets  
Harrisburg, Pennsylvania

Joel E. Mazor, General Attorney  
Six Penn Center Plaza  
Philadelphia, Pennsylvania 19104

Edward F. Kane, Esquire  
Bean, DeAngelis, Kaufman & Kane  
522 Swede Street  
Norristown, Pennsylvania 19401  
(for Borough of West Conshohocken)

Walter Phipps, Jr., Solicitor  
Borough of Conshohocken  
312 Fayette Street  
Conshohocken, Pennsylvania 19428

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

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

Roger B. Reynolds, Solicitor  
County of Montgomery  
Courthouse  
Norristown, Pennsylvania 19404

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

Dated this 28th day of June, 1977.

*Candace N. Kreiger*  
\_\_\_\_\_  
Candace N. Kreiger

Of Counsel for  
Staff of the Pennsylvania Public Utility Commission

July 1, 1977

C. 19707

George D. Wezick  
Assistant Attorney General  
Commonwealth of Pennsylvania  
Department of Transportation  
Harrisburg, Pennsylvania 17120

POOR ORIGINAL

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

---

Dear Mr. Wezick:

Receipt is acknowledged of your letter dated June 13, 1977,  
enclosing corrected depositions of James B. Chiles and James Voraces  
taken by the Commission in the above entitled proceeding.

We note your statement that a copy has been served upon all  
parties of record listed in your letter.

Very truly yours,

for G. J. McElwee  
Secretary

POOR ORIGINAL

CJH:  
PLS

cc: Law Bureau  
Bureau of Transportation  
Office of Administrative Law Judge

DUPLICATE RECORD!  
ORIGINAL CERTIFIED  
TO COMMONWEALTH COURT!

RECEIVED  
JULY 1 1977

July 7, 1977

C. 19707

Herbert G. Zahn, Assistant Attorney General  
Pennsylvania Department of Transportation  
Harrisburg, Pennsylvania 17120

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

Dear Mr. Zahn:

Receipt is acknowledged of your letter dated June 17, 1977, enclosing an additional copy of corrected depositions of James B. Chiles and James Vovakes, identified as Pennsylvania Department of Transportation's Exhibit No. 6 and requesting an extension of time to ten days within which to file briefs in the above entitled proceeding.

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

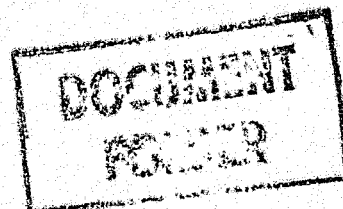
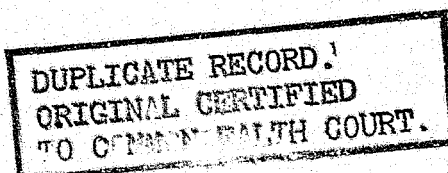
Your letter and enclosures will receive the Commission's attention and you will be further advised.

Very truly yours,

for C. J. McElwee  
Secretary

cc: Law Bureau - w/copy of letter and exhibit  
Bureau of Transportation - your Bureau has copy of exhibit  
Office of Administrative Law Judge -  
w/copy of letter and exhibit

CKG:JL:e



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



July 8, 1977

IN REPLY REFER TO

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

**RECEIVED**  
 JUL 11 1977  
 SECRETARY'S OFFICE  
 PUBLIC UTILITY COMMISSION

Re: Complaint Docket No. 19707  
 Montgomery County

Dear Mr. McElwee:

Enclosed for filing with the Commission are the original and fourteen (14) copies of Answer of Pennsylvania Department of Transportation to Motion to Strike Reply Brief and Memorandum of Law, in the above-captioned matter.

I hereby certify that three copies of said papers are being served this day on each party of record.

Very truly yours,

Herbert G. Zahn  
 Assistant Attorney General

220/HGZ:rmm  
 Enclosures

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



July 20, 1977

C. 19707

Herbert G. Zahn  
Assistant Attorney General  
Pennsylvania Department of Transportation  
Harrisburg, Pennsylvania 17120

Department of Transportation of the Commonwealth of Pennsylvania

v.

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

Dear Mr. Zahn:

Receipt is acknowledged of your letter dated July 8, 1977, enclosing an original and fourteen copies of the answer filed on behalf of Pennsylvania Department of Transportation to the motion to strike reply brief and memorandum of Law filed by the Commission staff in the above entitled proceeding.

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

The answer will receive the Commission's attention.

Very truly yours,

for C. J. McElwae  
Secretary

cc: Law Bureau - w/copy of answer  
Bureau of Transportation - w/copy of answer  
Office of Administrative Law Judge - w/copy of answer

CKG:paa





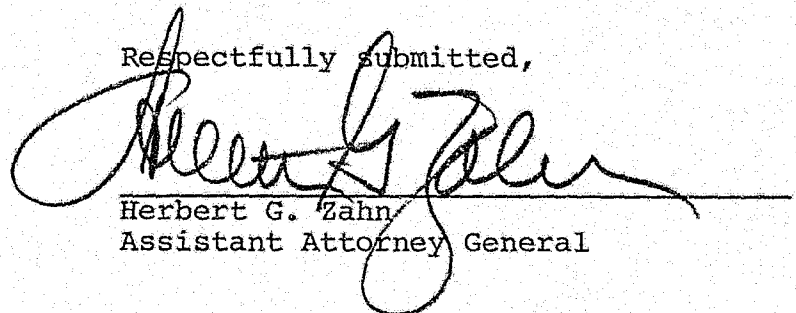
2. The allegations contained in petitioner's Paragraph 2 are admitted in part and denied in part. PennDOT admits that the time for filing of main briefs with the Commission in this proceeding expired on June 6, 1977, and that the Staff was the only party to file a main brief at that time. PennDOT denies any implication that PennDOT's filing on June 17, 1977, of a Reply Brief was untimely.

3. Paragraph 3 contains conclusions of law to which a responsive pleading is not required.

4. The allegations contained in petitioner's Paragraph 4 are denied as stated. PennDOT denies the implication that it is the only moving party in this proceeding, since the most recent hearing was held in part in response to a petition of the Borough of Conshohocken for enforcement of the Commission Order. PennDOT also denies that the filing of its Reply Brief without having previously filed a main brief is highly prejudicial to the Staff. Such a procedure is permitted by the applicable rules, and provides the adjudicating authority with well reasoned opposing arguments on the issues raised in the Staff's main brief, which are necessary for informed decision making.

WHEREFORE, PennDOT respectfully requests your Honorable Commission to dismiss the Motion of the Staff of the Pennsylvania Public Utility Commission to strike the Reply Brief of PennDOT filed in this proceeding.

Respectfully submitted,



Herbert G. Zahn  
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document, by first class postage prepaid upon all parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code §33.32. Service has been made upon the following:

Rudolph S. Pallastrone  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Lewis Tower Building  
15th and Locust Streets  
Philadelphia, Pennsylvania 19102

Joel E. Mazor, General Attorney  
Six Penn Center Plaza  
Philadelphia, Pennsylvania 19104

Candace N. Kreiger, Esquire  
Counsel for Staff of Pennsylvania Public Utility Commission  
North Office Building  
Harrisburg, Pennsylvania 17120

Edward F. Kane, Esquire  
Bean, DeAngelis, Kaufman & Kane  
522 Swede Street  
Norristown, Pennsylvania 19401  
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Walter Phipps, Jr., Solicitor  
Borough of Conshohocken  
312 Fayette Street  
Conshohocken, Pennsylvania 19428

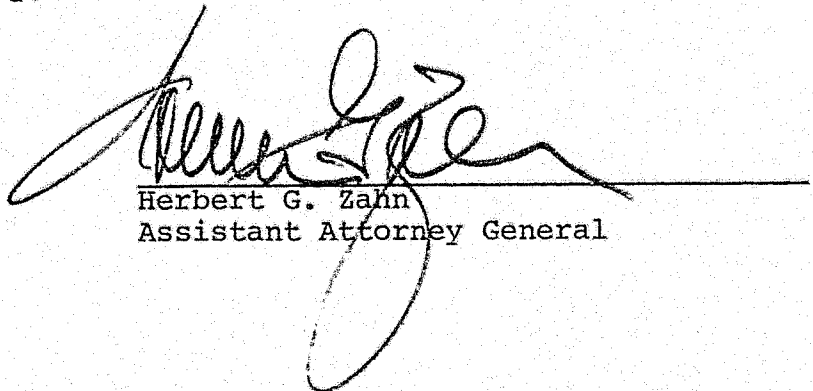
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Philadelphia Suburban Water Company  
762 Lancaster Avenue  
Bryn Mawr, Pennsylvania 19010

Roger B. Reynolds, Solicitor  
County of Montgomery  
Courthouse  
Norristown, Pennsylvania 19404

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

Dated this 8th day of July, 1977.



Herbert G. Zahn  
Assistant Attorney General



STATEMENT OF THE CASE

Pursuant to 1 Pa. Code 33.3 made applicable to this proceeding by 52 Pa. Code 3.1, I hereby incorporate by reference the "Statement of the Case" contained in the Main Brief filed on behalf of the Staff of the Pennsylvania Public Utility Commission (Staff) as corrected and amended by the "History of the Case" contained in the Reply Brief of the Department of Transportation of the Commonwealth of Pennsylvania (PennDOT).

By letter dated May 20, 1977, the Pennsylvania Public Utility Commission (Commission) notified all parties to the proceeding that Main Briefs were due to be filed within fifteen (15) days of receipt of the letter.

PennDOT received the notification letter on May 23, 1977.

The Main Brief of the Staff was filed on or about June 6, 1977, and PennDOT received it on June 7, 1977.

PennDOT filed its Reply Brief to the Staff's Main Brief on June 17, 1977.

On June 29, 1977, PennDOT received the Staff's Motion to Strike PennDOT's Reply Brief and on July 8, 1977, PennDOT answered said Motion.

## ARGUMENT

The primary rule concerning Reply Briefs filed in proceedings before the Commission is 52 Pa. Code §3.282(b) which provides:

"(b) Each party who has given notice of intention to file a brief shall file its main brief with the Commission within fifteen days after notice from the Commission that the transcript of testimony has been filed, and may file an answering brief within ten days after it has received the main briefs of all other such parties."

As stated above in the "Statement of the Case", PennDOT received the Staff's Main Brief on June 7, 1977, and filed its Reply Brief on June 17, 1977, or within the ten days after receipt of the Staff's Main Brief. This would appear to be the end of the matter, however the Staff apparently believes that 52 Pa. Code 3.282(b) precludes PennDOT from filing a Reply Brief in this proceeding because it failed to file a Main Brief.

The key to interpreting 52 Pa. Code 3.282(b) lies in understanding the phrase "shall file its main brief with the Commission within fifteen days after notice", and in properly determining the consequence of failure to file within the time period. A useful guide to such an interpretation is the rule which previously governed the subject matter in proceedings before the Commission, Rule 48(c) of the Rules of Practice and Procedure before the Commission which provided:

"(c) Each party who has given notice of intention to file a brief shall file its main brief with the Commission within fifteen days after notice from the Commission that the transcript of the testimony has been filed, and may file an answering brief within ten days after it shall have received the main briefs of all other parties. The party transmitting a main or answering brief to the Commission shall, at the same time, transmit three copies thereof to each other party of record. Failure to file a brief within the time specified herein shall constitute a waiver of filing, and the record shall be closed."

The first part of Paragraph (c) is worded identically to 52 Pa. Code 3.282(b). Additionally Paragraph (c) explicitly explains the consequences of untimely filing, namely that it constitutes a waiver of filing. Significantly, the rule does not make the filing of a Main Brief a precondition of the filing of a Reply Brief. It is also important to note that the filing of a Reply Brief only, without having first filed a Main Brief, was accepted practice, that PennDOT previously did so regularly under Paragraph (c), and that no party ever objected to the practice.

The rule governing the subject matter at present, 52 Pa. Code 3.282(b), does not itself contain an explanation of the consequences of failure to file a Main Brief within fifteen days of receipt of notice. Apparently, the Staff considers this omission as an indication that the penalty for such a failure has been altered or increased under the present rule. Such an interpretation is unwarranted. 1 Pa. Code 35.193 as applied to

this proceeding by 52 Pa. Code 3.1, states the penalty for the untimely filing of Brief, and provides in pertinent part:

"Briefs not filed and served on or before the dates affixed therefor shall not be accepted for filing, except by special permission of the agency head or the presiding officer."

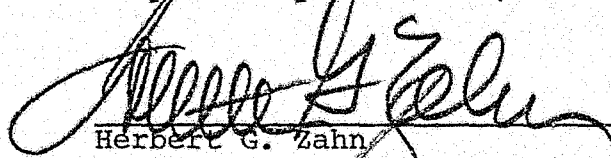
This is the only section of the applicable rules which provides a penalty for untimely filing and we must consider it to do so exhaustively.

A further indication that the Staff's interpretation is mistaken is the provision of 1 Pa. Code 35.191, as applied to this proceeding by 52 Pa. Code 3.1, which states in pertinent part:

"In no proceeding, whether briefs are to be filed simultaneously or otherwise, shall any participants upon whom rests the burden of proof be denied the right to file a reply brief."

The Staff's Motion to Strike PennDOT's Reply Brief should be dismissed and PennDOT's Reply Brief should be considered by the adjudicating authority.

Respectfully submitted,



Herbert G. Zahn  
Assistant Attorney General

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ANSWER OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
TO MOTION TO STRIKE REPLY  
BRIEF

and

MEMORANDUM OF LAW

---

Herbert G. Zahn  
Assistant Attorney General  
Office of Chief Counsel  
Commonwealth of Pennsylvania  
Department of Transportation  
Harrisburg, Pennsylvania 17120

August 2, 1977

C. 19707

Robert L. Rowland, P.E.  
District Engineer  
Department of Transportation  
200 Radnor-Chester Road  
St. Davids, Pennsylvania 19087

POOR ORIGINAL

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

Dear Mr. Rowland:

Receipt is acknowledged of your letter dated July 27, 1977, stating that on July 26, 1977, engineers from PennDot inspected the Conshohocken Bridge over the Schuylkill River in accordance with the Pennsylvania Public Utility Commission order dated October 21, 1975.

Your letter will receive the Commission's attention.

Very truly yours,

Roz C. J. McElwee  
Secretary

cc: Law Bureau - w/copy of letter  
Bureau of Transportation - w/copy of letter  
Office of Administrative Law Judge - w/copy of letter

CKG:cc

DUPLICATE RECORD!  
ORIGINAL CERTIFIED  
TO COMMONWEALTH COURT.

DOCUMENT  
FOLDER

COMMONWEALTH OF PENNSYLVANIA  
 DEPARTMENT OF TRANSPORTATION  
 200 Radnor-Chester Road  
 St. Davids, Penna. 19087  
 July 27, 1977



IN REPLY REFER TO

PCP-JJM  
 Montgomery County  
 L.R. 46140, Sta. 134+49  
 Conshohocken Bridge over Schuylkill River  
 P.U.C. C-19707

**RECEIVED**

JUL 29 1977

SECRETARY'S OFFICE  
 PUBLIC UTILITY COMMISSION

Mr. C.J. McElwee, Secretary  
 Public Utilities Commission  
 P.O. Box 3265  
 Harrisburg, Pa.

Dear Mr. McElwee:

On 26 July 1977, engineers from PennDOT inspected the subject bridge in accordance with the P.U.C. order dated 21 October 1975.

In general the overall condition of the structure is stable. Spalling and deteriorating do, however, continue to grow. At Pier #8 (left side) there is a substantial loss of section due to concrete spalling. This portion of the pier supports the edge of the deck slab spanning from it to the first interior floor-beam. The erection of timber bents to support the slab is presently being scheduled.

Scheduled repairs to the sidewalk referred to in the last report have been accomplished. Deteriorated concrete was removed and a permanent concrete patch placed.

Very truly yours,

*Robert L. Rowland*  
 Robert L. Rowland, P.E.  
 District Engineer

DOCUMENT  
 FOLDER



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

September 19, 1977

IN REPLY PLEASE  
REFER TO OUR FILE

C. 19707

Honorable Rudolph S. Pallastrone  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Lewis Tower Building  
15th and Locust Streets  
Philadelphia, Pennsylvania 19102

Re: Complaint Docket No. 19707  
Montgomery County  
Matsonford Bridge

Dear Judge Pallastrone:

This refers to your letter indicating that oral argument will be held in the captioned proceeding prior to the issuance of your initial decision.

Be advised that I am prepared to argue on behalf of the Staff of the Pennsylvania Public Utility Commission any day the week of September 26, 1977. I would appreciate several days advance notice; therefore, please inform me of the argument date at your earliest possible convenience.

Sincerely,

*Candace N. Kreiger*  
Candace N. Kreiger  
Assistant Counsel

cc: See attached list.

CNK:sis

DUPLICATE RECORD.  
ORIGINAL CERTIFIED  
TO COMMONWEALTH COURT.

FILE

SEP 21 1977

Re: C. 19707

SERVICE LIST

Rudolph S. Pallastrone  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Lewis Tower Building  
15th and Locust Streets  
Philadelphia, Pennsylvania 19102

Robert W. Omliffe, Deputy Attorney General  
Pennsylvania Department of Transportation  
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Seventh and Forster Streets  
Harrisburg, Pennsylvania

Herbert G. Zahn, Assistant Attorney General  
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Courthouse  
Norristown, Pennsylvania 19404

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

September 29, 1977

C. 19707

Herbert G. Zahn, Assistant Attorney General  
Pennsylvania Department of Transportation  
Capital Associates Building  
Seventh and Forster Streets  
Harrisburg, Pennsylvania

Department of Transportation of  
the Commonwealth of Pennsylvania

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

Dear Sir:

The purpose of this letter is to advise you that oral argument in the above proceeding, before Administrative Law Judge Rudolph Pallastrone, will be held on Friday, October 21, 1977, in the Conference Room, 13th Floor, Pennsylvania State Office Building, Broad and Spring Garden Street, Philadelphia, commencing at 10:00 a.m.

It is not necessary for you to acknowledge receipt of this letter.

Very truly yours,

William Shane  
Chief Administrative Law Judge

ccs: Law Bureau  
Bureau of Transportation  
Secretary's Office  
Mr. Bramson  
Ms. Dickey  
Complaint Section-Secretary's Bureau  
Administrative Law Judge Pallastrone  
Chairman Carter  
Consumer Advocate

DUPLICATE RECORD!  
ORIGINAL CERTIFIED  
TO COMMONWEALTH COURT.

Similar Letters: See attached list

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Similar Letters:

Joel E. Mazor, General Attorney  
Consolidated Rail Corporation  
Six Penn Center Plaza  
Philadelphia, Pennsylvania 19104

Walter Phipps, Jr., Solicitor  
Borough of Conshohocken  
312 Fayette Street  
Conshohocken, Pennsylvania 19428

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

Roger B. Reynolds, Solicitor  
County of Montgomery  
Courthouse  
Norristown, Pennsylvania 19404

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

Candace N. Kreiger, Assistant Counsel  
Pennsylvania Public Utility Commission - Law Bureau  
P. O. Box 3265  
Harrisburg, Pennsylvania 17120

Mr. John L. Storch  
Pennsylvania Public Utility Commission -  
Bureau of Transportation, Rail Division  
P. O. Box 3265  
Harrisburg, Pennsylvania 17120

Robert W. Cunliffe, Deputy Attorney  
General  
Pennsylvania Department of Transportation  
Capital Associates Building  
Seventh and Forster Streets  
Harrisburg, Pennsylvania 17120

Edward F. Kane, Esquire  
Kane, Pugh, Anderson, Subers and McBrien  
512 Swede Street  
Norristown, Pennsylvania 19401

State Representative Tony Scirica  
Room B-6, House of Representatives  
Main Capitol Building  
Harrisburg, Pennsylvania 17120

Similar Letters (cont'd)

Thomas C. Sadler, Jr., Esquire  
Morgan, Lewis & Bockius  
123 South Broad Street  
Philadelphia, Pennsylvania 19109



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

October 6, 1977

IN REPLY PLEASE  
REFER TO OUR FILE

C. 19707

Rudolph S. Pallastrone  
27th Floor, Lewis Tower Building  
15th & Locust Streets  
Philadelphia, Pennsylvania 19102

DUPLICATE RECORD!  
ORIGINAL CERTIFIED  
TO COMMONWEALTH COURT.

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

Dear Judge Pallastrone:

The Commission Staff has been advised that oral argument in the captioned proceeding will be heard on Friday, October 21, 1977, in Philadelphia. It is our understanding that oral argument will be on the issues outlined in your August 24, 1977 letter.

Currently there are two outstanding motions before you for decision:

1. PennDOT's June 17, 1977, letter petition requesting that depositions of James B. Chiles and James Vovakes be marked for identification as PennDOT's Exhibit No. 6 and admitted into evidence; and

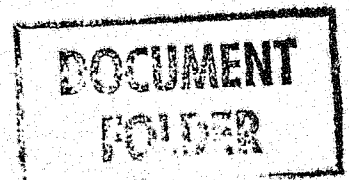
2. Commission Staff's June 28, 1977 Motion to Strike PennDOT's Reply Brief.

Clearly the ruling on the two outstanding motions will significantly affect the scope of oral argument to be presented on the 21st; therefore, the Commission Staff requests that you issue a decision on the two motions prior to oral argument.

A copy of this letter has been sent to all parties of record.

Sincerely,

*Candace Kreiger*  
Candace N. Kreiger  
Assistant Counsel



CNK:sls

Service List

William R. Shane, Chief  
Administrative Law Judge  
Room G-6  
North Office Building  
Harrisburg, Pennsylvania 17120

Joel E. Mazor, General Attorney  
Consolidated Rail Corporation  
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The Bell Telephone Company of Pennsylvania  
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Edward F. Kane, Esquire  
Kane, Pugh, Anderson, Subers and McBrien  
512 Swede Street  
Norristown, Pennsylvania 19401

State Representative Anthony Scirica  
Room B-6, House of Representatives  
Main Capitol Building  
Harrisburg, Pennsylvania 17120

LAW OFFICES  
RUDOLPH S. PALLASTRONE  
27TH FLOOR LEWIS TOWER BLDG.  
15TH AND LOCUST STREETS  
PHILADELPHIA, PA. 19102

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OCT 13 1977

SECRETARY'S OFFICE  
PUBLIC UTILITY COMMISSION  
AREA CODE 215  
TOLLEY 6-3400

October 10, 1977

William Shane, Chief  
Administrative Law Judge  
Penna. Public Utility Commission  
North Office Building  
Harrisburg, Pa. 17120

RE: C. 19707 - Department of  
Transportation of the  
Commonwealth of Penna. vs.  
Reading Company, et al

Dear Bill:

I enclose herein, Order on two (2) outstanding  
Petition's and Motion's in the Matsonford case.

Upon approval of Order, would you kindly forward  
copy to Mr. Zahn, Esquire, counsel for Penndot and  
Ms. Kreiger, Esquire, of Legal Staff.

It would now be in order to submit my previous  
Initial Decision and Order in this matter.

Thank you for your courtesy.

Very truly yours,

*Rudolph S. Pallastrone*  
RUDOLPH S. PALLASTRONE  
ADMINISTRATIVE LAW JUDGE

RSP/mar

cc: Mr. Cornelius McElwee ✓

Enc

DUPLICATE RECORD.  
ORIGINAL CERTIFIED  
TO COMMONWEALTH COURT.

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P  
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