





INDEX TO EXHIBITS (cont.)

Docket No. A-2020-3020667

Hearing Date: September 30, 2021

<u>NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
---------------	---------------------------	--------------------

PennDOT (cont.):

3	Municipal Winter Traffic Services Agreement	51	53
---	--	----	----

4	Appendix B - Department Responsibility Beyond Curblines	55	57
---	---	----	----

5	Chapter 4 Subsection H - Roadway Lighting	71	72
---	---	----	----

BIE Hearing Statement Number:

1	Dan Helfrich - Direct	93	94
---	--------------------------	----	----

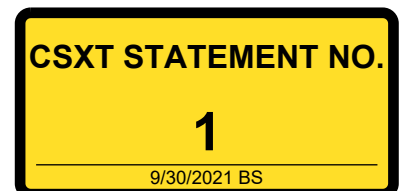
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of	:	
Transportation of the Commonwealth of	:	
Pennsylvania for approval to alter the	:	
crossings where State Route 3104 crosses,	:	Docket No. A-2020-3020667
above grade, the tracks of CSX Transportation	:	
Inc. (DOT 584 825 U), Norfolk Southern	:	Electronically Filed
Railway Company (DOT 507 455 K), and the	:	
Pittsburgh and Ohio Central Railroad	:	
Company (DOT Unknown) in the City of	:	
Pittsburgh, Stowe Township and McKees	:	
Rocks Borough, Allegheny County	:	

**WRITTEN DIRECT TESTIMONY OF DEREK MIHALY, P.E.**  
**ON BEHALF OF CSX TRANSPORTATION, INC.**

July 21, 2021



1 Q. Mr. Mihaly, please state and spell your full name for the record.

2 A. Derek S. Mihaly.

3 Q. And by whom are you employed, Mr. Mihaly?

4 A. CSX Transportation, Inc. CSXT for short.

5 Q. What is your business address?

6 A. 2000 West Cabot Blvd., Suite 130, Langhorne PA 19047.

7 Q. And what is your position with CSXT?

8 A. Project Manager II.

9 Q. What are your duties in that position?

10 A. I currently manage Public Projects in the Design and Construction Department. I oversee

11 the review and approval of design and construction plans by outside parties. Outside

12 party projects involve the construction of new overhead highway and undergrade railroad

13 bridges, and the demolition and reconstruction of existing highway and undergrade

14 railroad bridges. My territory encompasses 7 states in the Northeast, including

15 Pennsylvania, and Canada.

16 Q. Are you a licensed professional engineer?

17 A. Yes, in Delaware.

18 Q. Are you familiar with the crossing at issue in this proceeding?

19 A. Yes.

20 Q. Is CSXT the owner and operator of the line of railroad under this highway bridge?

21 A. Yes, one of three including Norfolk Southern and the Pittsburgh and Ohio Central

22 Railroad Company.

23 Q. Please describe the general area of the involved crossing and the street involved.

- 1 A. The bridge span adjacent to Chambers Street includes CSXT mainline tracks running  
2 under the McKees Rocks Bridge.
- 3 Q. How many tracks does CSXT have at this crossing and what is the average number of  
4 trains that traverse this crossing each day and their authorized speed?
- 5 A. CSXT has 4 tracks, two main tracks, a lead track and a spur track. An average of thirty-  
6 four (34) CSXT trains traverse the crossing each day. The maximum authorized speed is  
7 fifty (50) miles per hour on the main tracks.
- 8 Q. Has CSXT ever had any responsibility for sidewalk maintenance or lighting at this  
9 crossing?
- 10 A. Not that I am aware of.
- 11 Q. Do sidewalks and lighting on highway bridge crossings provide any benefit to CSXT?
- 12 A. No.

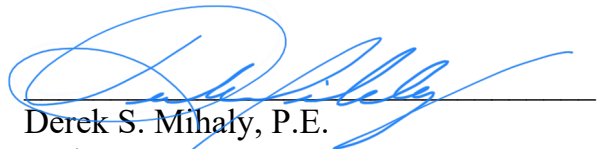
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of	:	
Transportation of the Commonwealth of	:	
Pennsylvania for approval to alter the	:	
crossings where State Route 3104 crosses,	:	Docket No. A-2020-3020667
above grade, the tracks of CSX Transportation	:	
Inc. (DOT 584 825 U), Norfolk Southern	:	Electronically Filed
Railway Company (DOT 507 455 K), and the	:	
Pittsburgh and Ohio Central Railroad	:	
Company (DOT Unknown) in the City of	:	
Pittsburgh, Stowe Township and McKees	:	
Rocks Borough, Allegheny County	:	

**VERIFICATION**

I, Derek S. Mihaly, P.E., Project Manager II for CSX Transportation, Inc., hereby state that the facts set forth in my written Direct Testimony in this matter, which is marked as CSXT Statement No. 1, are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: September 29, 2021

  
Derek S. Mihaly, P.E.  
Project Manager II  
CSX Transportation, Inc.  
2000 West Cabot Blvd., Suite 130  
Langhorne, PA 19047

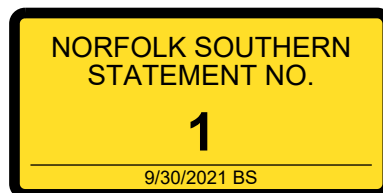
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of	:	
Transportation of the Commonwealth of	:	
Pennsylvania for approval to alter the	:	
crossings where State Route 3104 crosses,	:	Docket No. A-2020-3020667
above grade, the tracks of CSX Transportation	:	
Inc. (DOT 584 825 U), Norfolk Southern	:	Electronically Filed
Railway Company (DOT 507 455 K), and the	:	
Pittsburgh and Ohio Central Railroad	:	
Company (DOT Unknown) in the City of	:	
Pittsburgh, Stowe Township and McKees	:	
Rocks Borough, Allegheny County	:	

**WRITTEN DIRECT TESTIMONY OF DOUGLAS “SHAWN” STARLING  
ON BEHALF OF NORFOLK SOUTHERN RAILWAY COMPANY**

July 21, 2021

**NORFOLK SOUTHERN STATEMENT NO. 1**



- 1 Q. Please state and spell your full name for the record.
- 2 A. Douglas "Shawn" Starling.
- 3 Q. And by whom are you employed?
- 4 A. Norfolk Southern Corporation.
- 5 Q. What is your business address?
- 6 A. 1200 Peachtree Street NE, Atlanta, GA.
- 7 Q. And what is your position with Norfolk Southern Railway Company, which is the  
8 operating company for these rail lines?
- 9 A. Senior Public Improvements Engineer
- 10 Q. What are your duties in that position?
- 11 A. Review railroad components for large projects proposed by public and government  
12 agencies.
- 13 Q. Are you a licensed professional engineer?
- 14 A. Yes, I am a professional engineer in the state of Georgia.
- 15 Q. Are you familiar with the crossing at issue in this proceeding?
- 16 A. Yes
- 17 Q. Is Norfolk Southern Railway Company the owner and operator of one of the lines of  
18 railroad under this highway bridge?
- 19 A. Yes

1 Q. How many tracks does Norfolk Southern Railway Company have at this crossing and  
2 what is the average number of trains that traverse this crossing each day and their  
3 authorized speed?

4 A. Two tracks, 35 trains a day at 40 mph.

5 Q. Has Norfolk Southern Railway Company ever had any responsibility for sidewalk  
6 maintenance or lighting at this crossing?

7 A. No

8 Q. Does Norfolk Southern Railway Company have maintenance responsibilities for  
9 sidewalks or lighting on any highway bridge crossing in Pennsylvania of which you are  
10 aware?

11 A. No

12 Q. Do sidewalks and lighting on highway bridge crossings provide any benefit to Norfolk  
13 Southern Railway Company?

14 A. No

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of	:	
Transportation of the Commonwealth of	:	
Pennsylvania for approval to alter the	:	
crossings where State Route 3104 crosses,	:	Docket No. A-2020-3020667
above grade, the tracks of CSX Transportation	:	
Inc. (DOT 584 825 U), Norfolk Southern	:	Electronically Filed
Railway Company (DOT 507 455 K), and the	:	
Pittsburgh and Ohio Central Railroad	:	
Company (DOT Unknown) in the City of	:	
Pittsburgh, Stowe Township and McKees	:	
Rocks Borough, Allegheny County	:	

**VERIFICATION**

I, Douglas “Shawn” Starling, P.E., Senior Public Improvements Engineer for Norfolk Southern Corporation, hereby state that the facts set forth in my written Direct Testimony in this matter, which is marked as Norfolk Southern Statement No. 1, are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



Date: 9-28-2021

---

Douglas “Shawn” Starling, P.E.  
Senior Public Improvements Engineer  
Norfolk Southern Corporation  
1200 Peachtree Street, N.E.  
Atlanta, GA

1                                    **DEPARTMENT OF TRANSPORTATION'S TESTIMONY**  
2                                    **DOCKET NO. A-2020-3020667**  
3                                    **HEARING STATEMENT NO. 1**  
4                                    **HEARING DATE: September 30, 2021**

5    **Q.     Please state your name and business address.**

6    A.     Philip Mutunga. Pennsylvania Department of Transportation, Engineering District 11-0  
7           45 Thoms Run Road, Bridgeville, PA 15017.

8    **Q.     By whom are you employed and in what capacity?**

9    A.     I am employed by the Pennsylvania Department of Transportation in District 11-0, as  
10          Grade Crossing Engineer.

11   **Q.     What counties does District 11-0 encompass?**

12   A.     District 11-0 encompasses Allegheny, Beaver and Lawrence Counties.

13   **Q.     How long have you been employed by the Department and in what other capacities**  
14          **have you been employed?**

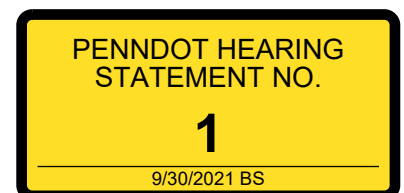
15   A.     Ten years total. I worked as a Civil Engineer-Transportation, Strategic Environmental  
16          Maintenance Manager, and now as Grade Crossing Engineer.

17   **Q.     Please generally describe your duties as Grade Crossing Engineer.**

18   A.     As the Grade Crossing Engineer, I am responsible for coordinating with the railroads any  
19          Department projects that might impact their facilities. I also work with the railroads during  
20          the construction phase and to address any maintenance concerns. This position also  
21          includes coordinating with the Public Utility Commission (“PUC” or “Commission”)  
22          regarding any alterations to existing crossings by Department projects.

23   **Q.     What is your educational background?**

24   A.     Bachelor of Science in Civil Engineering, San Jose State University.



1 **Q. Are you a registered professional engineer in Pennsylvania?**

2 A. Yes.

3 **Q. Are you authorized to testify in this proceeding on behalf of the Department?**

4 A. Yes.

5 **Q. Are you familiar with the crossing which is the subject of today's proceeding?**

6 A. Yes.

7 **Q. Can you please describe what has been marked for identification purposes as**  
8 **Department Exhibit 1?**

9 A. This is a location map of the crossings and the surrounding area.

10 **Q. Does the location map marked as Department Exhibit Number 1 accurately depict**  
11 **the crossings and the surrounding area?**

12 A. Yes.

13 **Q. Was Department Exhibit Number 1 prepared by you or under your direction and**  
14 **control?**

15 A. It was prepared under my direction and control.

16 **Q. Can you further describe the existing subject crossing?**

17 A. The McKees Rocks Bridge carries state route 3104 over CSX Transportation, Inc. (DOT  
18 No. 584825U), Pittsburgh & Ohio Central Railroad Company (DOT No. 977980L), and  
19 Norfolk Southern Railway Company (DOT No. 507455K). The McKees Rocks Bridge (SR  
20 3104) provides traffic connection between Ohio River Boulevard (SR 0065) and Island  
21 Avenue (SR 0051) through the City of Pittsburgh, Stowe Township and McKees Rocks  
22 Borough. The existing McKees Rocks Bridge is a complex structure of various types of  
23 construction. The McKees Rocks Bridge is an approximately 5,800-foot long structure that

1 consists of steel spandrel-braced deck arches, steel-trussed through arches, Warren deck  
2 trusses and an elevated concrete structure. The McKees Rocks Bridge is of varying width  
3 with the main river-crossing spans that carry 3 travel lanes with sidewalks on both sides of  
4 the structure.

5 **Q. Please describe the average daily traffic volume for the crossing.**

6 A. The average daily traffic volume (“ADT”) is 22,180 vehicles for segments 0020 and 0030.  
7 The ADT for segment 0010 is 11,509. The ADT for segment 0011 is 10,671. The  
8 Department does not maintain pedestrian ADT numbers.

9 **Q. Please provide a brief overview of the current crossing project.**

10 A. The scope of work includes bridge sidewalk repair/replacement at various locations,  
11 sidewalk railing paint, full-depth concrete pavement reconstruction of approximately 1145’  
12 of mainline SR 3104 and the 4 ramps at Helen Street, ADA ramps at Helen Street, approach  
13 slab replacement, approach pavement work at intersections with SR 65 & SR 51, barrier  
14 repair, expansion joint repair, deck overhang repair, backwall repair, protective fencing  
15 installation above railroads, and miscellaneous construction.

16 **Q. As part of this project, will the sidewalks or lighting be impacted?**

17 A. The bridge sidewalks will be repaired/replaced at various locations. No lighting  
18 improvements are anticipated to be made as part of the project.

19 **Q. Does the Department have a record of any orders or actions of the Public Utility  
20 Commission for this crossing under a prior docket number?**

21 A. Yes. The Department has PUC Orders dated June 9, 1969, July 7, 1969, October 31, 1969  
22 and January 20, 1975 under docket number C-18734. They are attached as Department  
23 Exhibit 2. Department representatives contacted the Commission’s office to locate any

1 additional prior orders, including any that may have appealed the attached orders, and  
2 was told that the file was destroyed due to mold after being damaged at the archives.

3 **Q. Was Department Exhibit 2 prepared by you or under your direction and control?**

4 A. Yes.

5 **Q. Does the Department currently have maintenance responsibility for this crossing?**

6 A. The January 20, 1975 PUC Order, under docket C-18734, indicates that the  
7 Department maintains the substructure and superstructure of the bridge, the paving  
8 on the bridge structure, including the sidewalks, the approaches to the bridge, and  
9 the roadway and navigation lighting.

10 **Q. Describe what winter maintenance, such as snow, ice, and debris removal and the  
11 application of anti-skid or de-icing material the Department has performed on the  
12 crossing.**

13 A. The Department performs winter maintenance on the roadway from segment 0020 offset  
14 0000, at the intersection of state route 3104 and Helen Street, to segment 0030 offset 3864,  
15 at the intersection of state route 3104 and state route 65.

16 **Q. Has the Department entered into any winter maintenance agreements with any other  
17 entities for the crossing?**

18 A. The Department has entered into a winter services agreement with McKees Rocks Borough  
19 at this crossing. The agreement is attached as Department Exhibit 3.

20 **Q. Please explain what winter services Department Exhibit 3 covers.**

21 A. The agreement covers snow removal on the roadway between Island Avenue and Helen  
22 Street. It also covers the ramps at the east end of the bridge. It does not cover sidewalks.

23 **Q. Was Department Exhibit 3 prepared by you or under your direction and control?**

1 A. Yes.

2 **Q. What is the Department’s policy concerning winter maintenance of a bridge carrying**  
3 **a state route?**

4 A. The Department provides winter maintenance on the roadway and ramps either through an  
5 agreement with the municipalities or has it done by Department forces. Since the McKees  
6 Rocks Bridge is an Act 615 bridge, Department maintenance responsibility is the structural  
7 integrity of sidewalk and curbs only. The Department does not perform winter maintenance  
8 on the sidewalks.

9 **Q. Does the Department intend to continue to provide winter maintenance on the**  
10 **roadway as currently provided and stated above?**

11 A. Yes.

12 **Q. Were you present at the field conference held on October 21, 2020?**

13 A. Yes.

14 **Q. At the field conference was the responsibility for future maintenance of the sidewalks**  
15 **and lighting, as well as the future energization costs of the lighting system discussed?**

16 A. Yes, the lighting and sidewalk issues were brought up. I mentioned that the Department  
17 does not perform sidewalk maintenance, including snow, ice, and debris removal and that  
18 it is the municipalities’ responsibility. The lighting was also discussed.

19 **Q. After the field conference, did the Department reach out to the concerned**  
20 **municipalities to discuss the lighting system maintenance and energization as well as**  
21 **the sidewalk maintenance issues?**

22 A. Yes. The Department reached out to the City of Pittsburgh, Stowe Township, and McKees  
23 Rocks Borough by email on 10/23/20 and 11/24/20, with no responses from the City of

1 Pittsburgh or Stowe Township. McKees Rocks Borough responded on 12/8/20 by email  
2 indicating that they may consider contributing to lighting energization and lighting and  
3 sidewalk maintenance. I contacted the City of Pittsburgh and Stowe Township again on  
4 12/10/20 but received no response.

5 **Q. On January 14, 2021, were the concerned parties contacted by the Public Utility**  
6 **Commission regarding a resolution to this case?**

7 A. Yes. The affected parties were contacted on January 14, 2021 by Dan Helfrich, P.E. from  
8 the Commission's Bureau of Technical Utility Services. Mr. Helfrich provided the parties  
9 with a proposed resolution for the future maintenance and costs associated with the bridge  
10 lighting and removal of snow, ice, and debris from the sidewalks. This proposal would  
11 have made the City of Pittsburgh, Stowe Township, and McKees Rocks Borough  
12 responsible at their initial cost and expense, for these items within their own respective  
13 municipal limits. Mr. Helfrich gave the parties the opportunity to respond by February 1,  
14 2021 if there were any objections.

15 **Q. Did any parties object to the proposed resolution?**

16 A. Yes. The City of Pittsburgh objected on January 29, 2021. In its emailed objection the City  
17 of Pittsburgh stated that it had outstanding questions that would need to be resolved before  
18 it could agree to a resolution. Particularly, the City of Pittsburgh stated it had questions  
19 concerning the energization of the lighting system, lighting system maintenance, and the  
20 responsibilities of other municipalities.

21 **Q. Are you aware whether the City of Pittsburgh attended the prehearing conference for**  
22 **this matter?**

1 A. According to the Prehearing Order issued on May 27, 2021 under the current docket  
2 number, the City of Pittsburgh did not attend the prehearing conference or timely submit a  
3 prehearing conference memorandum.

4 **Q. Are you aware whether Stowe Township attended the prehearing conference for this**  
5 **matter?**

6 A. According to the same Prehearing Order issued on May 27, 2021 Stowe Township also did  
7 not attend the prehearing conference or timely submit a prehearing conference  
8 memorandum.

9 **Q. Does this conclude your testimony?**

10 A. Yes.

11

12

13

14

1                                    **DEPARTMENT OF TRANSPORTATION'S TESTIMONY**  
2                                    **DOCKET NO. A-2020-3020667**  
3                                    **HEARING STATEMENT NO. 2**  
4                                    **HEARING DATE: September 30, 2021**

5    **Q.    Please state your name and business address.**

6    A.    Christopher Ciesa. Pennsylvania Department of Transportation, Engineering District 11-  
7           0, 45 Thoms Run Road, Bridgeville, PA 15017.

8    **Q.    By whom are you employed and in what capacity?**

9    A.    I work for the Pennsylvania Department of Transportation Engineering District 11-0 as the  
10          Bridge Inspection Supervisor.

11   **Q.    How long have you been employed by the Department and in what other capacities**  
12          **have you been employed?**

13   A.    I have been employed by the Department for 11 years. In that time, I have worked in Bridge  
14          Analysis, Bridge Inspection and as the Bridge Asset Management Supervisor.

15   **Q.    Please generally describe your duties as Bridge Inspection Supervisor.**

16   A.    I am responsible for the bridge inspection program of state-owned bridges in District 11.  
17          This includes scheduling the inspections and ensuring their compliance with National  
18          Bridge Inspection Standards regulations.

19   **Q.    What is your educational background?**

20   A.    I have a Bachelor of Science Degree in Civil Engineering from Michigan State University.

21   **Q.    Are you a registered professional engineer in Pennsylvania?**

22   A.    Yes.

23   **Q.    Are you authorized to testify in this proceeding on behalf of the Department?**

24   A.    Yes.

25   **Q.    Are you familiar with the crossing which is the subject of today's proceeding?**

1 A. Yes.

2 **Q. When was the crossing constructed and by whom?**

3 A. The Department's records indicate that the crossing was constructed in 1931 by Allegheny  
4 County Department of Public Works, Bureau of Bridges.

5 **Q. Does the Department have a record of any improvements to the crossing in the past**  
6 **five years.**

7 A. The Department has records of the following improvements. A 1965 Preservation Project  
8 which consisted of joint repairs, concrete repairs, repairs to rigid frames in approach, and  
9 repairs to stairways by the Department or its contractor. A 1980 Preservation Project which  
10 consisted of structural steel repairs, joint replacement, approach slab replacement, and curb  
11 and sidewalk repairs by the Department or its contractor. A 1985 Preservation Project  
12 which consisted of the repair and replacement of sidewalk fencing, steel repairs, steel  
13 painting, and strip seal replacement by the Department or its contractor. A 2008  
14 Preservation Project which consisted of the replacement of strip seals, reset expansion  
15 bearings, seal concrete cracking, deck repairs, and downspout repairs by the Department's  
16 contractor.

17 **Q. Does the Department have a record of any maintenance performed to the crossing in**  
18 **the past five years?**

19 A. Numerous structural sidewalk repairs have been made. Additionally, deck drains were  
20 repaired and replaced in 2017. Deck repairs were made in both 2020 and 2021. Type two  
21 deck repairs were made in 2018. Drainage improvements were made in 2017. Concrete  
22 joint rehabilitation and sealing were done in 2015. Pavement patching was accomplished

1 from 2019 through 2020. Spray patching was completed in 2015 through 2017. Roadway  
2 and navigational lights have been re-lamped approximately every three years.

3 **Q. Does the Department agree to continue to maintain the McKees Rocks crossing?**

4 A. Yes. The Department agrees to maintain the McKees Rocks Bridge structure itself as well  
5 as the structural integrity of the sidewalks only. On Act 615 bridges such as this, the  
6 Department's policy dictates only curb to curb maintenance be provided.

7 **Q. Can you explain what an Act 615 bridge is?**

8 A. Act 615 of 1961 was legislation which transferred ownership of various highways and  
9 bridges from counties and municipalities to the State Department of Highways. According  
10 to the October 31, 1969 PUC Order under docket C-18734, McKees Rocks Bridge was  
11 included in Act 615 and ownership was transferred from Allegheny County to the  
12 Department of Highways.

13 **Q. Are there any Department policies that directly address this?**

14 A. Pub 23 – Maintenance Manual, specifically Chapter 7, attached as Department Exhibit 4,  
15 dictates maintenance of highways that were added to the State System.

16 **Q. Was Department Exhibit 4 prepared by you or under your direction and control?**

17 A. Yes.

18 **Q. What maintenance activities would be considered outside of the curb line?**

19 A. General maintenance of the sidewalks such as sweeping, litter and snow removal.

20 **Q. If the Department does not provide maintenance outside of the curb on Act 615  
21 bridges, who generally does?**

22 A. Generally, the municipality is responsible for maintenance outside of the curb line.

23 **Q. Who is currently providing the maintenance outside of the curb line?**

1 A. The municipality should be but I'm not sure who actually is.

2 **Q. Does the Department intend to provide future maintenance outside of the curb line?**

3 A. No. In accordance with the Department policy attached as Department Exhibit 4, the  
4 Department is not responsible for and does not intend to provide maintenance outside of  
5 the curb line.

6 **Q. Who Does the Department believe should be responsible for maintenance outside of**  
7 **the curb line?**

8 A. The Department believes the municipalities should be responsible for maintenance outside  
9 of the curb line.

10 **Q. Does this conclude your direct testimony?**

11 A. Yes.

12

1                                    **DEPARTMENT OF TRANSPORTATION'S TESTIMONY**  
2                                    **DOCKET NO. A-2020-3020667**  
3                                    **HEARING STATEMENT NO. 3**  
4                                    **HEARING DATE: September 30, 2021**

5    **Q.    Please state your name and business address.**

6    A.    William J. Lester. Pennsylvania Department of Transportation, Engineering District 11-0,  
7            45 Thoms Run Road, Bridgeville, PA 15017.

8    **Q.    By whom are you employed and in what capacity?**

9    A.    I work for the Pennsylvania Department of Transportation Engineering District 11-0 as a  
10           Transportation Construction Manager III.

11   **Q.    How long have you been employed by the Department and in what other capacities**  
12           **have you been employed?**

13   A.    Over the past 22 years, I have held multiple positions with the Department, including  
14           Pavement Marking Manager, Highway Occupancy Permit Manager, and currently as  
15           Construction Manager III.

16   **Q.    Please generally describe your duties as Construction Manager III.**

17   A.    I am responsible for the oversight and management of highway construction and  
18           maintenance contracts, including but not limited to, electrical maintenance and operations,  
19           Intelligent Traffic Systems maintenance and operations (i.e. video camera, speed and  
20           traffic volume detection, dynamic message signs, etc.) , signage as well as preparation of  
21           Plans, Specifications and Estimates Packages for bidding purposes.

22   **Q.    What is your educational background?**

23   A.    I have continuing educational credit in Construction Management and Engineering  
24           Technology from Community College of Allegheny County. Additionally, I have  
25           completed all Department training courses including advanced construction management

1 and construction scheduling, as well as design and operations of traffic signals and ADA  
2 ramps.

3 **Q. Are you a registered professional engineer in Pennsylvania?**

4 A. No.

5 **Q. Are you authorized to testify in this proceeding on behalf of the Department?**

6 A. Yes.

7 **Q. Are you familiar with the crossing which is the subject of today's proceeding?**

8 A. Yes.

9 **Q. Are you familiar with the crossing's lighting system?**

10 A. Yes.

11 **Q. Please provide the utility company that provides electric service to the crossing's  
12 lighting system.**

13 A. Duquesne Light Company.

14 **Q. Does the current Department crossing project impact the lighting system?**

15 A. Upon review of the scope of work there is no to limited impact to the existing lighting  
16 systems.

17 **Q. What would be the limited impact?**

18 A. It is unclear if the expansion dams will need to be replaced at this point. However, if they  
19 do, it may impact the existing conduits and cables within the existing parapet walls and  
20 may require repair and/or replacement, as well as protection of the existing conduit and  
21 cables, but this is minor work.

22 **Q. Has the Department entered into agreements with any municipality regarding the  
23 crossing lighting energization or crossing lighting maintenance?**

1 A. I am not aware of any agreements with any municipalities for the energization and  
2 maintenance of the lighting system.

3 **Q. What maintenance does the Department currently provide to the roadway and**  
4 **navigational lighting system?**

5 A. The Department currently maintains all roadway and navigational lighting on the McKees  
6 Rocks Bridge, including but not limited to, re-lamping of all fixtures, repair and  
7 replacement of accident-damaged facilities, and energy costs.

8 **Q. Does the Department currently pay the energization costs of the roadway or**  
9 **navigational lighting system?**

10 A. Yes, the Department currently pays for maintenance and energization of both the roadway  
11 and navigation lighting.

12 **Q. Why does the Department pay to energize and maintain the lighting system?**

13 A. Under the PUC Order dated January 20, 1975 for docket number C-18734, attached in  
14 Department Exhibit 2, the Public Utility Commission ordered the Department at its sole  
15 cost and expense to construct and maintain the lighting systems. It is unclear why the  
16 Department pays to energize the lighting system.

17 **Q. Does the Department normally pay for maintenance or energization of a lighting**  
18 **system on a bridge carrying a state route?**

19 A. No, the Department doesn't regularly or normally pay for maintenance or energization of  
20 lighting systems on bridges.

21 **Q. Does the Department have a policy on this?**

1 A. Yes. Under the Department Design Manual Publication 10C (DM-1C) 2015 Edition -  
2 Change #4, relevant excerpt attached as Department Exhibit 5, provisions for lighting are  
3 handled as follows:

4  
5 On new or reconstructed bridges, PennDOT will install, at its expense, lighting standards  
6 providing the local government assumes the ownership and 100% of the costs of energy  
7 and maintenance.

8  
9 On existing bridges, the updating or installation of lighting systems shall meet  
10 PennDOT's standards and be approved by the Bureau of Maintenance Operations. The  
11 local government must agree in writing to assume the ownership and 100% the costs of  
12 construction, energy, and maintenance.

13  
14 On intersections, such as roundabouts where PennDOT guidance recommends lighting,  
15 PennDOT will install, at its expense, lighting standards - providing the local government  
16 agrees in writing to assume the ownership and the costs for energy and maintenance or as  
17 stipulated in the maintenance.

18 **Q. Was Department Exhibit 5 prepared by you or under your direction and control?**

19 A. Yes.

20 **Q. What happens if the local government does not agree to pay the energy and**  
21 **maintenance costs?**

22 A. Under this same policy, the District Executive or the Deputy Secretary for Highway  
23 Administration may consider one of the following: apply cost sharing, have PennDOT

1 cover the energy and maintenance costs, install provisions for future lighting. In bridges,  
2 those provisions are determined by the District Executive.

3 **Q. In the prior PUC Orders that address this crossing, did the Department ever agree to**  
4 **pay for the maintenance or energization of the lighting system?**

5 A. No. The PUC Order dated October 31, 1969 under docket C-18734 and included in  
6 Department Exhibit 2, makes it very clear that the Department would, at its sole cost,  
7 “construct the new sidewalks and install roadway lighting and navigation lighting on the  
8 bridge . . . if others are made responsible for energizing and maintaining the roadway  
9 lighting.” Therefore, it is clear that the Department would not have installed the lighting  
10 system if it would have known it would have to maintain or energize the system.  
11 Additionally, it is unclear if the Department ever appealed the January 20, 1975 PUC Order  
12 under docket number C-18734 assigning maintenance of the lighting system, as the file  
13 was destroyed at the archives and all records were lost. The PUC Orders and information  
14 provided in Department Exhibit 2 were what the Department could find in its files.

15 **Q. Does the Department agree to continue to pay for the maintenance and energization**  
16 **of the lighting system?**

17 A. No, it is the Department’s position that the Department should not be responsible for these  
18 costs as discussed in the Department Design Manual and Lighting Policy, included in  
19 Department Exhibit 5 and discussed earlier.

20 **Q. Who does the Department believe should be responsible?**

21 A. Based on the Departments Design Manuals and established Lighting Policy it is very clear  
22 the local municipalities should be responsible for the maintenance and energy costs of any  
23 and all lighting systems.

1 **Q. Has the Department approached the surrounding municipalities about the**  
2 **maintenance and energization of the lighting system?**

3 A. Yes. I am aware that conversations took place but was not directly involved in those  
4 discussions.

5 **Q. Is the bridge lighting system one contiguous system regardless of which governmental**  
6 **entity the system is located in?**

7 A. Yes. The lighting system covers the entire bridge. The electric service that provides the  
8 energy to the system originates in McKees Rock Borough. This is a major component of  
9 the system.

10 **Q. Does this conclude your direct testimony?**

11 A. To the best of my recollection, yes.

12

13

14

15

1                                    **DEPARTMENT OF TRANSPORTATION'S TESTIMONY**  
2                                    **DOCKET NO. A-2020-3020667**  
3                                    **HEARING STATEMENT NO. 5**  
4                                    **HEARING DATE: September 30, 2021**

5    **Q.    Please state your name and business address.**

6    A.    Michael Adams. Pennsylvania Department of Transportation, Engineering District 11-0,  
7            45 Thoms Run Road, Bridgeville, PA 15017.

8    **Q.    By whom are you employed and in what capacity?**

9    A.    I work for the Pennsylvania Department of Transportation Engineering District 11-0 as the  
10          District Maintenance Operations Engineer.

11   **Q.    How long have you been employed by the Department and in what other capacities**  
12          **have you been employed?**

13   A.    I have been employed by the Department for 10 years. I have worked for the Department  
14          since graduating and receiving my Masters Degree.

15   **Q.    Please generally describe your duties as District Maintenance Operations Engineer**  
16          **title.**

17   A.    I am responsible for District 11's Maintenance Operations Section in the District  
18          Maintenance Unit. I am responsible for our Bridge Maintenance Section, our District  
19          Roadside Program which involves maintaining our roadsides (mowing, grass cutting,  
20          herbicide spraying, etc.), our Line Painting Program, our Posted and Bonded Roads  
21          Section, and our Tort Liability Section.

22   **Q.    What is your educational background?**

23   A.    I received a Bachelor's Degree in Mathematics with a concentration in Engineering from  
24          Saint Vincent College. I received a Master's Degree in Civil Engineering from the  
25          University of Akron.

1 **Q. Are you a registered professional engineer in Pennsylvania?**

2 A. Yes.

3 **Q. Are you authorized to testify in this proceeding on behalf of the Department?**

4 A. Yes.

5 **Q. Are you familiar with the crossing which is the subject of today's proceeding?**

6 A. Yes.

7 **Q. Did you have the opportunity to review the direct testimony of Daniel R. Helfrich of**  
8 **the Rail Safety Division, Bureau of Technical Utility Services, labeled as I&E**  
9 **Statement No. 1?**

10 A. Yes.

11 **Q. In Mr. Helfrich's testimony he described the Rail Safety Division's position that the**  
12 **Department is responsible for the future maintenance contained in paragraph 18 of**  
13 **the March 10, 2021 Secretarial Letter as well as other ancillary items. Do you agree**  
14 **with his interpretation?**

15 A. It is the Department's position that the future maintenance obligations of the Department  
16 include the maintenance of the substructure, superstructure, parapets, structural sidewalk  
17 components, fencing and deck of the State Route 3104 bridge, as well as the remainder of  
18 the improvement including the roadway pavement, highway approaches, roadway surface,  
19 and drainage facilities. The ancillary features the Department is responsible for include the  
20 structural integrity of the stairways and stairway railings, the structural integrity of the  
21 bridge ramps leading to the surface streets, as well as the longitudinal white and yellow  
22 pavement markings. The municipalities should be responsible for the signage associated  
23 with the signals because the municipalities are responsible for the ownership and

1 maintenance of the traffic signals. Signal signage would include all traffic signs relating  
2 to the traffic signals and lanes (i.e. lane designation signage, signals ahead signage, etc.).  
3 The supports that hold up all the signal signage would also be the municipalities'  
4 responsibility.

5 **Q. Do you agree with Mr. Helfrich's testimony that a state DOT may enter into a**  
6 **maintenance agreement with the local officials to provide for the maintenance of**  
7 **transportation facilities constructed with federal funds?**

8 A. Yes.

9 **Q. How does the Department address snow removal on sidewalks for all of its projects,**  
10 **including those constructed with federal funding?**

11 A. As previously described in Christopher Ciesa's testimony on behalf of the Department, the  
12 Department's policy dictates only curb to curb maintenance be provided on Act 615 bridges  
13 such as this. The Department ensures maintenance for snow/debris/litter removal is  
14 provided by entering into maintenance agreements with the municipalities.

15 **Q. Is entering a maintenance agreement with local officials the only way the locals are**  
16 **made responsible for providing snow removal maintenance on sidewalks?**

17 A. It is not uncommon for the PUC to order municipalities to provide snow removal on  
18 sidewalks since the residents of the municipalities receive most of the benefit from the  
19 sidewalks. It is my understanding that there are court cases where this has been upheld in  
20 the past.

21 **Q. When local officials refuse to sign a maintenance agreement for snow removal on**  
22 **sidewalks, what is the Department's policy?**

1 A. On new bridge construction projects, if a local municipality won't agree to maintain a  
2 sidewalk after construction, then PennDOT District 11 will not construct sidewalks on the  
3 bridge during construction. Usually, if a municipality does not want to maintain the  
4 sidewalks on a bridge after construction, it is mutually agreed between PennDOT District  
5 11 and the municipality to not include the sidewalks in the construction.

6 **Q. Are you aware of any projects where the Department has decided to not construct**  
7 **sidewalks on a bridge due to the local officials' refusal to enter into a maintenance**  
8 **agreement.**

9 A. Yes. However, I was not personally involved with those projects.

10 **Q. Do you agree with Mr. Helfrich's testimony that the residents of the City of**  
11 **Pittsburgh, Stowe Township, and McKees Rocks Borough will benefit the most from**  
12 **the proper winter maintenance of the sidewalks?**

13 A. Yes. The residents of the municipalities utilize the sidewalks to commute across the bridge.  
14 Proper winter maintenance of the sidewalks will be necessary from the municipalities to  
15 keep a safe environment for their commuters.

16 **Q. Do you also agree with Mr. Helfrich's testimony that the City of Pittsburgh, Stowe**  
17 **Township, and McKees Rocks Borough should be responsible for future snow, ice,**  
18 **and debris removal from the sidewalks for the accommodation, convenience, and**  
19 **safety of the public?**

20 A. Yes.

21 **Q. Does this conclude your rebuttal testimony?**

22 A. Yes.

23

1                                    **DEPARTMENT OF TRANSPORTATION'S TESTIMONY**  
2                                    **DOCKET NO. A-2020-3020667**  
3                                    **HEARING STATEMENT NO. 6**  
4                                    **HEARING DATE: September 30, 2021**

5    **Q.    Please state your name and business address.**

6    A.    Philip Mutunga. Pennsylvania Department of Transportation, Engineering District 11-0  
7           45 Thoms Run Road, Bridgeville, PA 15017.

8    **Q.    Were you involved in any projects where the Department decided not to construct**  
9           **sidewalks on a bridge due to the local officials' refusal to enter into a winter**  
10           **maintenance agreement?**

11   A.    Yes. This occurred under PUC Docket A-2020-3015375 for the SR 4070-A19  
12           superstructure replacement project. On this project, the existing bridge currently has  
13           sidewalk on one side. Initially, the plan was to install a new sidewalk, on the same side, as  
14           part of the project. However, the Assistant Township Manager for Hampton Township  
15           reached out to the PUC engineer as well as the Department project manager, stating that  
16           Hampton Township will not agree to be responsible for snow and ice removal on the  
17           sidewalk. Since the Department typically does not provide snow and ice removal on  
18           sidewalks, the Department removed the sidewalk from the project. Thus, the new SR 4070  
19           bridge will not have a sidewalk.

20   **Q.    Why does the Department not typically provide snow and ice removal on sidewalks?**

21   A.    The Department's priority during winter events is the removal of snow and ice from the  
22           roadways in order to ensure safe travel for the public and first responders. Taking  
23           maintenance staff away to clear sidewalks would significantly impact the vehicular traffic  
24           and create a safety concern. Additionally, the Department believes that the locals will  
25           receive the best level of service if the local municipalities provide the snow and ice removal

1 on the sidewalks. Finally, on Act 615 bridges, which the McKees Rocks Bridge is, the  
2 Department's maintenance responsibility is limited to curb-to-curb.

3 **Q. Are you aware of any other projects where the sidewalk was removed from a project**  
4 **because the local officials would not agree to maintain it?**

5 A. Yes. However, I was not personally involved with those projects and cannot speak to  
6 specific facts.

7 **Q. Does this conclude your rebuttal testimony?**

8 A. Yes.

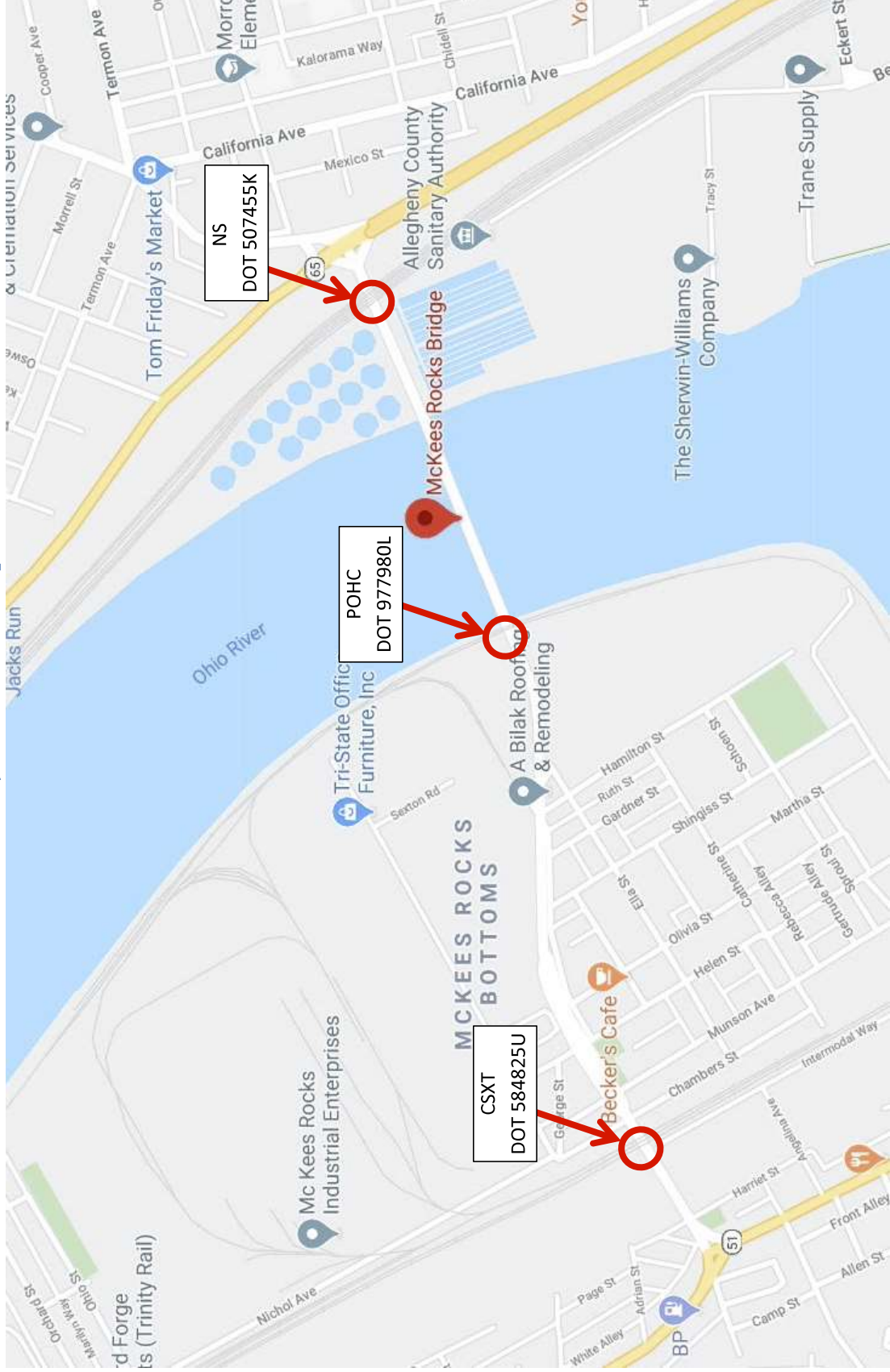
9

10

11

12

# Project Location Map



Allegheny County  
SR 3014-A03 McKees Rocks Bridge

# DEPARTMENT EXHIBIT 1

PENNDOT DEPARTMENT  
EXHIBIT  
**1**  
9/30/2021 BS

**A-2020-3020667**  
**Department Exhibit 2**



Allegheny County  
L. R. 76 Spur 2, Section 2  
Borough of McKees Rocks and  
Stowe Township  
(McKees Rocks Bridge)  
PUC. C. 18734

November 24, 1969

SUBJECT:

TO:

Mr. Joseph J. Micco, Comptroller, 8th Floor

FROM:

Harvey F. Neel, Chief Utility Engineer, 11th Floor  
ATTENTION: WILLIAM J. CLEMENTS

ROUTING	DATE
B. M. G.	12-3
F. P. D.	
B. V. B.	
M. L.	
W. J.	
J. F.	
<del>A. J. G.</del>	12/4
<del>P. J. U.</del>	12/4
<del>W. J. C.</del>	12/4

We are attaching the original and three (3) copies of the Public Utility Commission order dated October 31, 1969, in Complaint Docket No. 18734 providing for the reconstruction of the subject structure, the cost of which will be allocated after further hearing by a subsequent order.

FILE

Previous orders were assigned Department Agreement Numbers as follows:

- Order dated June 9, 1969 - Agreement No. 40036
- Order dated July 7, 1969 - Agreement No. 44036-A

Kindly assign an agreement number to the order and return the original and one (1) copy to this office.

*W J Clements*

attach  
430/WJC/eh

- cc/ Mr. Glenn Miller, 12th Floor
- cc/ Mr. B. F. Kotalik, 10th Floor
- cc/ Mr. J. G. Schwarz, 11th Floor
- cc/ **\*\*\*\*** Mr. F. D. DePasquale, District 11
- cc/ Mr. Donald Conrad, 11th Floor
- cc/ Mr. K. W. Hafer, 11th Floor
- cc/ Mr. J. B. Childs, 9th Floor
- cc/ Mr. James Vovakes, 12th Floor
- cc/ Mr. Geo. Balbach, 11th Floor
- cc/ Mr. Gene Pavlov, 11th Floor

\*\*\*\*Attached are copies of an order assigned Department Agreement No. 40036-5 for your information and file. Your attention is invited to Paragraph 9 of the order. Please include this project on your next Monthly Progress Report Form 415.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Complaint Docket No. 18734

PENNSYLVANIA PUBLIC UTILITY COMMISSION

v  
DEPARTMENT OF HIGHWAYS OF THE COMMONWEALTH OF PENNSYLVANIA,  
ALLECHENY COUNTY, PENN CENTRAL COMPANY, PITTSBURGH, CHARTIERS  
& YOUGHIOGHENY RAILWAY COMPANY, THE PITTSBURGH AND LAKE ERIE  
RAILROAD COMPANY, DUQUESNE LIGHT COMPANY, CITY OF PITTSBURGH,  
BOROUGH OF MCKEES ROCKS and TOWNSHIP OF STOWE

O R D E R

BY THE COMMISSION, OCTOBER 31, 1969:

The Commission, on May 12, 1969, received information from Department of Highways of the Commonwealth of Pennsylvania that certain repairs are urgently required on the sidewalks on the bridge, known as the McKees Rocks Bridge, carrying State Highway Route 76, Spur 2, across the Ohio River between the borough of McKees Rocks on the westerly side of the river and Stowe Township also on the westerly side of the river to the city of Pittsburgh on the easterly side of the river.

The bridge, which carries State Highway Route 76, Spur 2, extends from the junction with State Highway Route 76 (Highland Avenue), in the borough of McKees Rocks, through a portion of Stowe Township to a connection with State Highway Route 652 (Ohio River Boulevard), in the city of Pittsburgh, is a 17-span structure of various types, has a total length of about 5,500 feet, and crosses over and above the main tracks and yard tracks of The Pittsburgh and Lake Erie Railroad Company in McKees Rocks, over two tracks of Pittsburgh, Chartiers & Youghioghenny Railway Company in Stowe Township and over seven tracks of Penn Central Transportation Company (formerly Penn Central Company) in the city of Pittsburgh.

The bridge provides a roadway 40 feet in width between curbs and a sidewalk varying from six feet to ten feet in width along each side of the bridge.

The bridge was constructed by Allegheny County in compliance with the report and order of our predecessor, the Public Service Commission of the Commonwealth of Pennsylvania, dated September 8, 1931, at Municipal Contract Docket No. 5872. Subsequent to the completion of its construction, the bridge has been maintained by the county of Allegheny until 1962, when, according to the interpretation of Act 615 of the Legislature by Allegheny County, it was transferred to Department of Highways.

No count of pedestrian or highway traffic using the bridge was admitted of record at the hearings, but it was estimated by Representative Max Homer, who was present at the hearing held September 18, 1969, that the daily average of pedestrian traffic traveling the section of the bridge located in McKees Rocks and Stowe Township would be a minimum of 400 people and a maximum of 1,000 people daily.

A general plan for the reconstruction of the sidewalk, admitted at the hearing held August 19, 1969, as Department of Highways' Exhibit No. 1, provides for the replacement of the entire sidewalk on both sides of the bridge and for the replacement of roadway lighting and navigation lighting on the structure.

The department did not submit an itemized statement of cost, but based on the summary of quantities listed on the plan, the estimated cost of replacing the sidewalks is \$518,000; the bridge lighting, \$156,000 and the new navigation lighting, \$45,000, or a total of \$719,000.

Department of Highways, if so ordered by the Commission, will construct the new sidewalks and install the roadway lighting and navigation lighting on the bridge in accordance with its Exhibit No. 1, and, if others are made responsible for energizing and maintaining the roadway lighting will place the bridge lighting, estimated to cost \$156,000, at its sole cost and expense.

Duquesne Light Company will remove all its facilities consisting of series street lighting circuits, I.L. transformer and luminaries from the bridge. Where the sidewalk is to be reconstructed, the light company proposes to abandon in place any junction box and conduit, and in any section where the sidewalk is not to be reconstructed, the light company proposes to abandon in place any conduit and to remove the junction box lid, backfill the box with tamped granulated slag and fill the outside frame with wire meshed reinforced concrete, thus making the surface of the junction box corresponding to the surrounding area.

The light company will also remove four KV transformers from the upstream pier house at Pier No. 14 when the new navigation and pier house lighting are operable.

The cost of this entire work is estimated at \$13,150 and the light company will perform the work and assume the cost as above described.

The light company does not agree to assume any other costs of any other portion of the work contemplated or maintain or assume any maintenance costs with respect to any portion of the proposed improvement.

The Pittsburgh and Lake Erie Railroad Company is of the opinion that the reconstruction of the sidewalks on the bridge is necessary for the prevention of accidents and for the promotion of the safety of the public in the area that extends over and above its property and tracks. The company's witness testified that its employees working in the shop areas located beneath the bridge have been exposed to the danger of falling debris from the sidewalk areas due to their defective condition.

The company does not agree to perform any portion of the repair work, assume any portion of the cost of reconstructing the sidewalks, or to maintain any portion of the bridge structure. It will maintain flagmen and inspectors to protect its operations during the construction of the sidewalks and requests reimbursement for the cost thus incurred.

Pittsburgh, Chartiers & Youghiogheny Railway Company is of the opinion that the sidewalks on the bridge within the area above its tracks should be repaired in the interest of the safety of the public and its

employees. The company will maintain flagmen and inspectors to insure the safety of its employees and the operation of its trains during the construction of the sidewalks, does not agree to perform any other work or assume any cost of repair work or maintenance cost of the project.

Penn Central Transportation Company is aware that there are some defects in the sidewalk area in the span of the bridge extending over and above its tracks and is of the opinion that the sidewalks in that area should be repaired for the safety of the public.

The only portion of the work which Penn Central Transportation Company will perform is to furnish the necessary flagmen to protect its train traffic during any reconstruction work by other parties, does not agree to assume the cost of the proposed protection during construction period and does not agree to bear any cost of the construction work or to maintain any portion of the reconstructed bridge.

Upon full consideration of the matters and things involved, we find and determine that the reconstruction of the sidewalks, replacement of roadway lighting and navigation lighting on the bridge, known as the McKees Rocks Bridge, which carries State Highway Route 76, Spur 2, from the borough of McKees Rocks through a portion of Stowe Township and over and across the Ohio River to the city of Pittsburgh, all located in Allegheny County, and all generally in accordance with the plan prepared by Department of Highways and admitted at the hearing held August 19, 1969, as Department of Highways' Exhibit No. 1, are necessary or proper for the service, accommodation, convenience, or safety of the public; THEREFORE,

IT IS ORDERED:

1. That Department of Highways furnish all material and do all work necessary to reconstruct the sidewalks on the McKees Rocks Bridge and install new roadway lighting and navigation lighting on the bridge, all in accordance with the plan admitted at the hearing held August 19, 1969, as Department of Highways' Exhibit No. 1, which said plan is attached hereto, made part hereof and is hereby approved.

Department Exhibit 2

2. That Duquesne Light Company furnish all material and do all work necessary to remove its facilities from the McKees Rocks Bridge in order to permit the reconstruction of the sidewalks roadway lighting and navigation lighting in accordance with the approved plan.

3. That any relocation of, changes in, or removal of any adjacent structures, equipment, or other facilities of any public utility, other than Duquesne Light Company, as hereinabove provided, which may be required as incidental to the progression of the work hereinabove ordered, be made by said public utility in such manner as will not interfere with the construction of the project.

4. That The Pittsburgh and Lake Erie Railroad Company maintain watchmen or flagmen and inspectors to protect its operations during the time the sidewalks are being reconstructed and new lighting is being installed over and above its tracks.

5. That Pittsburgh, Chartiers & Youghiogeny Railway Company maintain watchmen or flagmen and inspectors to protect its operations during the time the sidewalks are being reconstructed and new lighting is being installed over and above its tracks.

6. That Penn Central Transportation Company maintain watchmen or flagmen and inspectors to protect its operations during the time the sidewalks are being reconstructed and new lighting is being installed over and above its tracks.

7. That Department of Highways cooperate with The Pittsburgh and Lake Erie Railroad Company, Pittsburgh, Chartiers & Youghiogeny Railway Company and Penn Central Transportation Company so that during the reconstruction of the sidewalks and the installation of the new lighting facilities, the operation of the facilities of each of the railroad companies will not be endangered or unnecessarily impeded.

8. That during the time the sidewalks are being reconstructed and new lighting facilities are being installed over and above its tracks, The Pittsburgh and Lake Erie Railroad Company, Pittsburgh, Chartiers & Youghiogheny Railway Company and Penn Central Transportation Company, each cooperate with Department of Highways and conduct its operations in the area in a safe manner and under control.

9. That this order be supplemented by further order allocating the costs and expenses and future maintenance of the project after further hearing.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

(signed) George I. Bloom  
Chairman

ATTEST:

Secretary

RECEIVED  
DEPT. OF HIGHWAYS  
DEC 5 11 30 56  
PITTSBURGH, PENNA.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

BUREAU OF TRANSPORTATION

---

In re:

C. 18734

Pennsylvania Public Utility Commission

v.  
Department of Highways of the Commonwealth of Pennsylvania,  
Allegheny County, Penn Central Company, Pittsburgh,  
Chartiers & Youghioghney Railway Company, The Pittsburgh  
and Lake Erie Railroad Company, Duquesne Light Company,  
City of Pittsburgh, Borough of McKees Rocks and Township  
of Stowe

---

Harrisburg, Pennsylvania  
October 29, 1969

To the Honorable

Pennsylvania Public Utility Commission

Harrisburg, Pennsylvania

Gentlemen:

The record in the above-entitled proceeding was assigned to us for review and recommendation in collaboration with the Law Bureau. We have, accordingly, reviewed the record including the testimony admitted at the hearings held August 19 and September 18, 1969.

At the hearing held September 18, 1969, it was stipulated by all parties, with the exception of the county of Allegheny, that Department of Highways should proceed with the reconstruction of the sidewalks as indicated on Department of Highways' Exhibit No. 1. However, it was understood at the hearing that the county was to advise the Commission within two weeks from the date of hearing whether it desires to cross-examine Department of Highways' witness on the plans and estimate of cost. To date the county has not so advised the Commission.

Accordingly, we submit herein for the consideration of the Commission, a proposed interim order which approves the plan of Department of Highways, marked Exhibit No. 1, and provides for the construction of new sidewalks on the bridge structure, the installation of new roadway lighting and navigation lighting. The Law Bureau concurs in this order.

Department Exhibit 2

---

ORDER

---

1 BY THE COMMISSION, 1969:

2 The Commission, on May 12, 1969, received information from  
3 Department of Highways of the Commonwealth of Pennsylvania that  
4 certain repairs are urgently required on the sidewalks on the  
5 bridge, known as the McKees Rocks Bridge, carrying State Highway  
6 Route 76, Spur 2, across the Ohio River between the borough of  
7 McKees Rocks on the westerly side of the river and Stowe Township  
8 also on the westerly side of the river to the city of Pittsburgh  
9 on the easterly side of the river.

10 The bridge, which carries State Highway Route 76, Spur 2,  
11 extends from the junction with State Highway Route 76 (Highland  
12 Avenue), in the borough of McKees Rocks, through a portion of Stowe  
13 Township to a connection with State Highway Route 652 (Ohio River  
14 Boulevard), in the city of Pittsburgh, is a 17-span structure of  
15 various types, has a total length of about 5,500 feet, and crosses  
16 over and above the main tracks and yard tracks of The Pittsburgh  
17 and Lake Erie Railroad Company in McKees Rocks, over two tracks of  
18 Pittsburgh, Chartiers & Youghiogheny Railway Company in Stowe  
19 Township and over seven tracks of Penn Central Transportation  
20 Company (formerly Penn Central Company) in the city of Pittsburgh.

21 The bridge provides a roadway 40 feet in width between  
22 curbs and a sidewalk varying from six feet to ten feet in width  
23 along each side of the bridge.

1           The bridge was constructed by Allegheny County in compliance  
2 with the report and order of our predecessor, the Public Service  
3 Commission of the Commonwealth of Pennsylvania, dated September 8,  
4 1931, at Municipal Contract Docket No. 5872. Subsequent to the  
5 completion of its construction, the bridge has been maintained by  
6 the county of Allegheny until 1962, when, according to the  
7 interpretation of Act 615 of the Legislature by Allegheny County,  
8 it was transferred to Department of Highways.

9           No count of pedestrian or highway traffic using the bridge  
10 was admitted of record at the hearings, but it was estimated by  
11 Representative Max Homer, who was present at the hearing held  
12 September 18, 1969, that the daily average of pedestrian traffic  
13 traveling the section of the bridge located in McKees Rocks and  
14 Stowe Township would be a minimum of 400 people and a maximum of  
15 1,000 people daily.

16           A general plan for the reconstruction of the sidewalk,  
17 admitted at the hearing held August 19, 1969, as Department of  
18 Highways' Exhibit No. 1, provides for the replacement of the entire  
19 sidewalk on both sides of the bridge and for the replacement of  
20 roadway lighting and navigation lighting on the structure.

21           The department did not submit an itemized statement of cost,  
22 but based on the summary of quantities listed on the plan, the  
23 estimated cost of replacing the sidewalks is \$518,000; the bridge  
24 lighting, \$156,000 and the new navigation lighting, \$45,000, or  
25 a total of \$719,000.

1 Department of Highways, if so ordered by the Commission,  
2 will construct the new sidewalks and install the roadway lighting  
3 and navigation lighting on the bridge in accordance with its  
4 Exhibit No. 1, and, if others are made responsible for energizing  
5 and maintaining the roadway lighting, will place the bridge  
6 lighting, estimated to cost \$156,000, at its sole cost and expense.

7 Duquesne Light Company will remove all its facilities  
8 consisting of series street lighting circuits, I.L. transformer  
9 and luminaries from the bridge. Where the sidewalk is to be  
10 reconstructed, the light company proposes to abandon in place  
11 any junction box and conduit, and in any section where the  
12 sidewalk is not to be reconstructed, the light company proposes  
13 to abandon in place any conduit and to remove the junction box  
14 lid, backfill the box with tamped granulated slag and fill the  
15 outside frame with wire meshed reinforced concrete, thus making  
16 the surface of the junction box corresponding to the surrounding area.

17 The light company will also remove four KV transformers from  
18 the upstream pier house at Pier No. 14 when the new navigation and  
19 pier house lighting are operable.

20 The cost of this entire work is estimated at \$13,150 and  
21 the light company will perform the work and assume the cost as  
22 above described.

23 The light company does not agree to assume any other costs  
24 of any other portion of the work contemplated or maintain or assume  
25 any maintenance costs with respect to any portion of the proposed  
26 improvement.

1           The Pittsburgh and Lake Erie Railroad Company is of the  
2 opinion that the reconstruction of the sidewalks on the bridge  
3 is necessary for the prevention of accidents and for the promotion  
4 of the safety of the public in the area that extends over and  
5 above its property and tracks. The company's witness testified  
6 that its employees working in the shop areas located beneath the  
7 bridge have been exposed to the danger of falling debris from the  
8 sidewalk areas due to their defective condition.

9           The company does not agree to perform any portion of the  
10 repair work, assume any portion of the cost of reconstructing the  
11 sidewalks, or to maintain any portion of the bridge structure. It  
12 will maintain flagmen and inspectors to protect its operations  
13 during the construction of the sidewalks and requests reimbursement  
14 for the cost thus incurred.

15           Pittsburgh, Chartiers & Youghiogheny Railway Company is of  
16 the opinion that the sidewalks on the bridge within the area above  
17 its tracks should be repaired in the interest of the safety of the  
18 public and its employees. The company will maintain flagmen and  
19 inspectors to insure the safety of its employees and the operation  
20 of its trains during the construction of the sidewalks, does not  
21 agree to perform any other work or assume any cost of repair work  
22 or maintenance cost of the project.

23           Penn Central Transportation Company is aware that there  
24 are some defects in the sidewalk area in the span of the bridge

October 29, 1969

1 extending over and above its tracks and is of the opinion that the  
2 sidewalks in that area should be repaired for the safety of the public.

3 The only portion of the work which Penn Central Transportation  
4 Company will perform is to furnish the necessary flagmen to protect  
5 its train traffic during any reconstruction work by other parties,  
6 does not agree to assume the cost of the proposed protection during  
7 construction period and does not agree to bear any cost of the  
8 construction work or to maintain any portion of the reconstructed  
9 bridge.

10 Upon full consideration of the matters and things involved,  
11 we find and determine that the reconstruction of the sidewalks,  
12 replacement of roadway lighting and navigation lighting on the  
13 bridge, known as the McKees Rocks Bridge, which carries State  
14 Highway Route 76, Spur 2, from the borough of McKees Rocks through  
15 a portion of Stowe Township and over and across the Ohio River to  
16 the city of Pittsburgh, all located in Allegheny County, and all  
17 generally in accordance with the plan prepared by Department of  
18 Highways and admitted at the hearing held August 19, 1969, as  
19 Department of Highways' Exhibit No. 1, are necessary or proper for  
20 the service, accommodation, convenience or safety of the public;  
21 THEREFORE,

22 IT IS ORDERED:

23 1. That Department of Highways furnish all material and do  
24 all work necessary to reconstruct the sidewalks on the McKees Rocks  
25 bridge and install new roadway lighting and navigation lighting

October 29, 1969

1 on the bridge, all in accordance with the plan admitted at the  
2 hearing held August 19, 1969, as Department of Highways' Exhibit  
3 No. 1, which said plan is attached hereto, made part hereof and  
4 is hereby approved.

5         2. That Duquesne Light Company furnish all material and  
6 do all work necessary to remove its facilities from the McKees  
7 Rocks Bridge in order to permit the reconstruction of the sidewalks  
8 roadway lighting and navigation lighting in accordance with the  
9 approved plan.

10         3. That any relocation of, changes in or removal of any  
11 adjacent structures, equipment or other facilities of any public  
12 utility, other than Duquesne Light Company, as hereinabove provided,  
13 which may be required as incidental to the progression of the work  
14 hereinabove ordered, be made by said public utility in such manner  
15 as will not interfere with the construction of the project.

16         4. That The Pittsburgh and Lake Erie Railroad Company  
17 maintain watchmen or flagmen and inspectors to protect its  
18 operations during the time the sidewalks are being reconstructed  
19 and new lighting is being installed over and above its tracks.

20         5. That Pittsburgh, Chartiers & Youghioghony Railway Company  
21 maintain watchmen or flagmen and inspectors to protect its operations  
22 during the time the sidewalks are being reconstructed and new  
23 lighting is being installed over and above its tracks.

24         6. That Penn Central Transportation Company maintain watchmen  
25 or flagmen and inspectors to protect its operations during the time

1 the sidewalks are being reconstructed and new lighting is being  
2 installed over and above its tracks.

3 7. That Department of Highways cooperate with The Pittsburgh  
4 and Lake Erie Railroad Company, Pittsburgh, Chartiers & Youghiogheay  
5 Railway Company and Penn Central Transportation Company so that  
6 during the reconstruction of the sidewalks and the installation of  
7 the new lighting facilities, the operation of the facilities of  
8 each of the railroad companies will not be endangered or unnecessarily  
9 impeded.

10 8. That during the time the sidewalks are being reconstructed  
11 and new lighting facilities are being installed over and above its  
12 tracks, The Pittsburgh and Lake Erie Railroad Company, Pittsburgh,  
13 Chartiers & Youghiogheay Railway Company and Penn Central Transporta-  
14 tion Company, each cooperate with Department of Highways and conduct  
15 its operations in the area in a safe manner and under control.

16 9. That this order be supplemented by further order  
17 allocating the costs and expenses and future maintenance of the  
18 project after further hearing.

Prepared by:

A. H. Crevoling  
A. H. Crevoling

Reviewed by:

R. L. Schenck  
R. L. Schenck

H. T. Woyton  
H. T. Woyton

2153

Respectfully submitted,

Merle A. Forst  
Merle A. Forst  
Director

Concurred in by:

Paul Silverstein  
Paul Silverstein  
Chief Counsel

SUBJECT *McKees Rocks Bridge, L.R. 76  
Spur 2, P.U.C. C. 18734*

TO *Udani, Br. Engr. Dist. 11-0*

FROM *W.J. Clements  
Gen. Mgr. 1169.*

DATE SENT *8/5/69*

DATE NEEDED *8/19/69*

PLEASE CALL:	APPROVAL	SEE ME
RETURNED YOUR CALL	<input checked="" type="checkbox"/> AS REQUESTED	COMMENT
INFORMATION	PREPARE REPLY/REPORT	NOTE AND FILE

RECEIVED BY	DATE	TIME

ROUTE	INITIAL	DATE	ROUTE	INITIAL	DATE

MESSAGE

# IMPORTANT

Attached is questions and procedures sheet for Hearing before P.U.C. on above captioned project. Hearing will be held on 8/19/69 at Pitts. (S.O. Bldg.). Please send comments for testimony on Item Nos. 7, 14 incl. 2nd 38. Must have them here by above date.

*Bill C.*

1. County of Allegheny submit testimony, giving the location of the crossing and the physical features of the highway approaches to the crossing.
2. County of Allegheny submit testimony, describing the crossing structure, giving its structural type, load capacity, principal dimensions and clearances, also details of any significant defective feature that could affect the safety of pedestrians or vehicles using the crossing.
3. County of Allegheny submit testimony giving the class and volume of vehicular and pedestrian traffic currently using the crossing and the predicted traffic volume for year 1979.
4. County of Allegheny submit testimony describing the date and under what conditions the bridge was constructed, the party or parties who constructed the bridge, the party or parties who maintain the substructure and superstructure of the bridge, including the sidewalks, roadway and navigation lighting facilities.
5. County of Allegheny state what portion of the necessary construction or repair work it will agree to perform, what portion of the cost thereof it will agree to assume and what portion of the bridge it will agree to maintain in the future.
6. County of Allegheny state whether it performed an in-depth inspection of the bridge in the last five years, if so, submit a copy or a summary of the report in evidence.
7. Department of Highways state whether it performed an in-depth inspection of the bridge in the last five years, if so, submit a copy or a summary of the report in evidence.
8. Department of Highways submit testimony, giving the highway route number and the traffic route number of the crossing involved in this proceeding.
9. The department submit testimony stating whether it is obligated in any way to maintain any portion of the substructure and superstructure of the bridge.
10. The department to describe in detail any defect in the crossing structure or its approaches which should be repaired in the interest of public safety or convenience, and in addition, state whether any other alterations to the structure or the approaches should be undertaken at this time.

11. The department to offer in evidence definitions of "substructure", "superstructure", "roadway paving", in the context of railroad and highway bridges, quoted from a recognized source, book or similar work and attested to by a professional engineer, experienced in bridge design and who is licensed to practice in the Commonwealth of Pennsylvania.
12. The department state whether it has prepared plans for the repair or reconstruction of the defects in the crossing structure, and if so, submit said plans into evidence at the hearing.
13. The department state whether it has prepared a statement of costs for the repair of the bridge as indicated in question 10, and if so, submit said statement of cost into evidence at the hearing.
14. The department state what portion of the necessary repair work it will agree to perform, what portion of the cost thereof it will agree to assume and what portion of the bridge it will agree to maintain in the future.
15. McKees Rocks state what portion of the necessary repair work it will agree to perform, what portion of the cost thereof it will agree to assume and what portion of the bridge it will agree to maintain in the future.
16. Stows Township state what portion of the necessary repair work it will agree to perform, what portion of the cost thereof it will agree to assume and what portion of the bridge it will agree to maintain in the future.
17. The Pittsburgh and Lake Erie Railroad Company (P&LE) submit testimony giving the exact corporate name of the party, or parties responsible for maintenance and operation of the section of track or tracks at the crossing involved in this proceeding.
18. P&LE state the name of its line of railroad passing through the crossing, the number of tracks, the terminal points and the number, class and authorized speed of rail traffic volume, or track configuration at the crossing.
19. P&LE state whether it agrees with the County of Allegheny's testimony describing the crossing structure, giving details of specific exceptions taken, add such additional description as seems pertinent, or necessary.
20. P&LE describe in detail any defects in the crossing structure or its approaches which should be repaired in the interest of public and convenience, and in addition, state whether any other alterations to the bridge structure should be undertaken at this time.

21. P&LE submit testimony stating whether it is obligated in any way to maintain any portion of the substructure and superstructure of the bridge.
22. P&LE state what portion of the necessary repair work it will agree to perform, what portion of the cost thereof it will agree to assume and what portion of the bridge it will agree to maintain in the future.
23. Pittsburgh, Chartiers & Youghiogheny Railway Company (PC&Y) submit testimony giving the exact corporate name of the party or parties responsible for maintenance and operation of the section of track or tracks at the crossing involved in this proceeding.
24. PC&Y state the name of its line of railroad passing through the crossing, the number of tracks, the terminal points and the number, class and authorized speed of rail traffic volume, or track configuration at the crossing.
25. PC&Y state whether it agrees with the County of Allegheny's testimony describing the crossing structure, giving details of specific exceptions taken, add such additional description as seems pertinent, or necessary.
26. PC&Y describe in detail any defects in the crossing structure, or its approaches which should be repaired in the interest of public safety and convenience, and in addition, state whether any other alterations to the bridge structure should be undertaken at this time.
27. PC&Y submit testimony stating whether it is obligated in any way to maintain any portion of the substructure and superstructure of the bridge.
28. PC&Y state what portion of the necessary repair work it will agree to perform, what portion of the cost thereof it will agree to assume and what portion of the reconstructed bridge it will agree to maintain in the future.
29. Penn Central Company (PC) submit testimony giving the exact corporate name of the party, or parties responsible for maintenance and operation of the section of track or tracks at the crossing involved in this proceeding.
30. P.C. give the name of its line of railroad passing through the crossing, the number of tracks, the terminal points and the number, class and authorized speed of rail traffic volume, or track configuration at the crossing.

31. P.C. state whether it agrees with the County of Allegheny's testimony describing the crossing structure, giving details or specific exceptions taken, add such additional description as seems pertinent, or necessary.
32. P.C. describe in detail any defects in the crossing structure or its approaches which should be repaired in the interest of public safety and convenience, and in addition, state whether any other alterations to the bridge structure should be undertaken at this time.
33. P.C. submit testimony stating whether it is obligated in any way to maintain any portion of the substructure and superstructure of the bridge.
34. P.C. state what portion of the necessary repair work it will agree to perform, what portion of the cost thereof it will agree to assume and what portion of the reconstructed bridge it will agree to maintain in the future.
35. City of Pittsburgh submit testimony stating whether it is obligated in any way to maintain any portion of the substructure and superstructure of the bridge.
36. City of Pittsburgh state what portion of the necessary repair work it will agree to perform, what portion of the cost thereof it will agree to assume and what portion of the reconstructed bridge it will agree to maintain in the future.
37. Duquesne Light Company submit testimony stating whether it is obligated to maintain any of its or other facilities on the bridge.
38. Query whether any of the interested parties desire to submit any additional relevant testimony.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Complaint Docket No. 18734

PENNSYLVANIA PUBLIC UTILITY COMMISSION

v.  
DEPARTMENT OF HIGHWAYS OF THE COMMONWEALTH OF  
PENNSYLVANIA, ALLEGHENY COUNTY, PENN CENTRAL  
COMPANY, PITTSBURGH, CHARTIERS & YOUGHIOGHENY  
RAILWAY COMPANY, THE PITTSBURGH & LAKE ERIE  
RAILROAD COMPANY, DUQUESNE LIGHT COMPANY, CITY  
OF PITTSBURGH and BOROUGH OF MCKEES ROCKS

O R D E R

BY THE COMMISSION, JULY 7, 1969:

According to information received from Department of Highways of the Commonwealth of Pennsylvania the sidewalks, roadway lights and navigation lighting on the bridge carrying State Highway Route 76, Spur 2, across the Ohio River, the tracks of Penn Central Company, Pittsburgh, Chartiers & Youghiogheny Railway Company and The Pittsburgh & Lake Erie Railroad Company between the city of Pittsburgh and the borough of McKees Rocks, in Allegheny County, are in extremely poor condition and need immediate replacement and represent considerable danger to the traveling public.

A cursory inspection made on May 27, 1969, substantiated the condition of the bridge as reported by Department of Highways.

On June 9, 1969, the Commission instituted an investigation on its own motion for the purpose of determining the nature, extent, and estimated cost of all work necessary to eliminate the dangerous conditions presently existing at the crossing.

Accordingly, the Commission is of the opinion that immediate repair should be made to the structure and we will require Department of Highways to prepare plans for such necessary repairs.

Upon receipt of the plans the case will be set down for hearing to determine the party or parties who should perform the work and assume the costs thereof; THEREFORE,

IT IS ORDERED:

1. That Department of Highways, within 15 days from date of service of this order prepare and submit to this Commission and to the named respondents, complete construction plans showing the details of the proposed reconstruction of the sidewalks on the McKees Rock bridge.

2. That upon receipt of the plans, the case be set down for hearing to determine the party or parties that should perform the work, assume the costs thereof and further maintenance of the structure.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

(signed) George I. Bloom

Chairman

ATTEST:

Secretary

Department Exhibit 2

PENNSYLVANIA PUBLIC UTILITY COMMISSION

---

Complaint Docket No. 18734

---

PENNSYLVANIA PUBLIC UTILITY COMMISSION

v.  
DEPARTMENT OF HIGHWAYS OF THE COMMONWEALTH OF PENNSYLVANIA,  
ALLEGHENY COUNTY, PENN CENTRAL COMPANY, PITTSBURGH,  
CHARTIERS & YOUGHIOGHENY RAILWAY COMPANY, THE PITTSBURGH  
AND LAKE ERIE RAILROAD COMPANY, DUQUESNE LIGHT COMPANY,  
CITY OF PITTSBURGH and BOROUGH OF MCKEES ROCKS

---

INVESTIGATION UPON COMMISSION MOTION

---

BY THE COMMISSION, JUNE 9, 1969:

The Commission is in receipt of information from Department of Highways of the Commonwealth of Pennsylvania that hazardous conditions exist and certain repairs appear to be urgently required on the bridge carrying State Highway Legislative Route 76 Spur 2 across the Ohio River, the tracks of Penn Central Company, Pittsburgh, Chartiers & Youghioghenny Railway Company, The Pittsburgh and Lake Erie Railroad Company between the city of Pittsburgh and the borough of McKees Rocks, in Allegheny County.

According to the information from the department, repairs are required to the present sidewalks, the roadway lighting, and navigation lighting on the bridge as all are in extremely poor condition, need immediate replacement and represent considerable danger to the traveling public.

An inspection of the bridge was made on May 27, 1969 by a member of the staff of this Commission accompanied by representatives of Department of Highways of the Commonwealth of Pennsylvania, Allegheny County, Penn Central Company, Pittsburgh, Chartiers & Youghioghenny Railway Company, The Pittsburgh and Lake Erie Railroad Company and City of Pittsburgh.

The inspection substantiated the condition of the bridge as reported by the department, and it was the opinion of all present at the conference that the condition should be corrected; and

It appearing that the prevention of accidents and the promotion of the safety of the public may require the alteration of the structure, including but not limited to the reconstruction of the sidewalk area of the bridge; and

It further appearing that a full and complete investigation to determine, inter alia, the nature, extent and estimated cost of all work necessary to eliminate the dangerous conditions presently existing at this location would be in the general interest of the public; THEREFORE,

IT IS ORDERED:

1. That an investigation be and is hereby instituted by Pennsylvania Public Utility Commission on its motion and under the provisions of the Public Utility Law, for the purpose of determining, inter alia, the nature, extent, and estimated cost of all work necessary to eliminate the dangerous conditions presently existing at this location.

2. That Penn Central Company; Allegheny County; Department of Highways of the Commonwealth of Pennsylvania; Pittsburgh, Chartiers & Youghioghenny Railway Company; The Pittsburgh and Lake Erie Railroad Company; City of Pittsburgh; Borough of McKees Rocks and Duquesne Light Company, respondents, are hereby severally ordered to file answers to the following interrogatories within 15 days after service hereof:

- (a) Does the prevention of accidents and promotion of the safety of the public require any alteration or reconstruction of any portion of of the substructure and superstructure of the bridge and highway approaches thereto?
- (b) What is the responsibility of the respondents with respect to the construction and maintenance of the existing bridge and approaches?
- (c) What respondent or respondents should perform the actual work of completing such corrective measures as may be found necessary at the bridge and the highway approaches thereto?
- (d) How shall the cost and expense of completing any corrective measures that may be found necessary and ordered by the Commission, and future maintenance of the bridge be allocated among the respondents?

3. That upon receipt of answers hereto, this case be set down for hearing, upon due notice to the respondents, for the purpose of receiving testimony on the matters and things involved.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

(signed) George I. Bloom  
Chairman

ATTEST:

Secretary

*Norman A. Gaudin*  
ATTORNEY FOR  
Borough of McKees Rocks

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMPLAINT DOCKET NO. 18734

PENNSYLVANIA PUBLIC UTILITY COMMISSION

v.

DEPARTMENT OF HIGHWAYS OF THE COMMONWEALTH  
OF PENNSYLVANIA, COUNTY OF ALLEGHENY, et al.

ANSWERS TO INTERROGATORIES

AND NOW, comes the Borough of McKees Rocks and makes the following Answers to the Interrogatories propounded in paragraph two of the Commission's Order dated June 9, 1969:

(A) It would appear that the safety of the public would be promoted by the reconstruction or substantial repair to all of the sidewalks on the said bridge and approaches.

(B) It is the understanding of the Borough of McKees Rocks that the responsibility for the proper construction and maintenance of the existing bridge and approaches lies with the Department of Highways of the Commonwealth of Pennsylvania, and the County of Allegheny.

(C) It is the understanding of the Borough of McKees Rocks that the actual work of completing any corrective measures found necessary should be performed by the aforesaid Department of Highways of the Commonwealth of Pennsylvania, and the County of Allegheny.

(D) The cost and expense of completing any corrective measures found necessary and ordered by the Commission, should be borne by the said Department of Highways of the Commonwealth of Pennsylvania, the County of Allegheny, and any other respondent that the Commission determines is liable for the cost and future maintenance. It is the position of the Borough of McKees Rocks that in no event should any such cost and expense, either of necessary corrections or of future maintenance, be allocated to the Borough of McKees Rocks.

ATTEST:

BOROUGH OF MCKEES ROCKS

*Fred Kewick*  
Borough Secretary

By *Phillip W. Schiraldi*  
President of Council

(Seal)

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF ALLEGHENY

} ss.

Before me, the undersigned authority, personally appeared FRED KNIATEK, who, being first duly sworn according to law, deposes and says that he is the Secretary of the Borough of McKees Rocks and as such, is authorized to make this Affidavit; and that the facts contained in the within Answer to Interrogatories are true and correct, according to the best of his knowledge, information and belief.

*Fred Kniatek*  
Fred Kniatek

SWORN TO AND SUBSCRIBED  
BEFORE ME THIS 18<sup>th</sup>  
DAY OF June, 1969.

*Sylvia Cohen*  
(Searl)

Sylvia Cohen, Notary Public  
Pittsburgh, Allegheny County, Pa.  
My Commission Expires  
September 7, 1970

FILED IN THE OFFICE OF THE  
CLERK OF THE COUNTY OF ALLEGHENY  
PITTSBURGH, PA.  
JUN 19 1969  
BY CLERK OF COUNTY



**FILE**  
Four Parkway Center  
875 Greentree Road  
Pittsburgh 15220  
April 16, 1969

FORM 744

O. R. XII-1  
L. R. 76  
McKees Rocks Bridge  
Allegheny County

Honorable Max H. Homer, Member  
House of Representatives  
137 William Circle  
McKees Rocks, Pennsylvania 15136

ROUTING	DATE
B. M. G.	
F. P. D.	
B. V. B.	
M. J. R.	
W. J. Mc.	
J. R. H.	
P. V.	
F. R. T.	
DEPASQUALE	

5/1/69

File

Dear Representative Homer:

We wish to acknowledge receipt of your letter dated April 3, 1969, wherein you requested a status report on the McKees Rocks Bridge sidewalk and lighting rehabilitation.

Please be advised that we have completed the necessary designs for this project, and that we will be submitting a construction drawing and other related documents to our Central Office on or before April 18, 1969.

However, we have been informed by our Legal Unit that the McKees Rocks Bridge was acquired by the Department of Highways under Act 615, and does have Public Utility Commission jurisdiction. As such, the responsibility of the Department of Highways has been limited and restricted to the maintenance of the roadway portion between curbs. Responsibility for the sidewalk areas and the lighting have not been assigned to the Department. Therefore, we cannot, at this time, expend funds for this project.

It is our intention to petition the Public Utility Commission and request that assignments be made for construction responsibilities and cost for this project. Until such time that this matter has been resolved, we are unable to establish a project letting date for this rehabilitation contract.

Very truly yours,

Department Exhibit 2

B. M. Givens, Jr.  
District Engineer

Copy to:

Reading File

Political Sub-Division Commitment File

W. J. Raves, Deputy Chief Engineer

J. Rezzolla, Deputy Attorney General

J. Mazar, Assistant Attorney General, Utility Division

R. E. Lintner, Design Liaison

P. Vrettacos, Pre-Construction

T. Jarrup, Plans

N. Udani, Bridge

DE PASQUALE:pjb:4/15/69

**COUNTY AND MUNICIPAL STATE HIGHWAY LAW**  
**Act of Sep. 18, 1961, P.L. 1389, No. 615**  
AN ACT

Cl. 36

Establishing and taking over as State highways certain county highways, or sections thereof, tunnels, bridges, viaducts and approaches thereto, in counties, and certain streets and bridges in cities of the first class and in cities of the second class, and certain streets in cities of the second class A and third class, and certain township roads and certain streets in boroughs and incorporated towns; authorizing under certain terms and conditions their construction, maintenance, repair, reconstruction and improvement by the Commonwealth; conferring certain powers upon Department of Highways and local authorities, persons, associations and corporations for sharing the cost of the maintenance and construction of such highways; and deleting certain State highways.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

ARTICLE I.  
COUNTIES.

Section 101. All or part of the following various public highways, or sections thereof, bridges, tunnels, viaducts and approaches thereto, in counties, shall, if and when the county commissioners consent thereto by resolution a copy of which shall be filed in the office of the clerk of the courts of the proper county and with the Department of Transportation, be adopted by the Commonwealth as a State highway; however, no highway bridge, viaduct or approach thereto shall be taken over by the Commonwealth under the provisions of this act if a contract for the improvement thereof has been entered into between a contractor and the Commonwealth or local authorities, or both, until such contract shall have been completed.

(101 amended July 3, 1985, P.L.159, No.43)

Section 102. (a) The highways or sections thereof, bridges, tunnels, viaducts and approaches thereto in Category I., established as State highways under the provisions of this act, may be taken over for construction and maintenance at any time subsequent to the final enactment of this act and shall be taken over not later than May 1, 1962.

(b) The highways or sections thereof, bridges, tunnels, viaducts and approaches thereto in Category II., established as State highways under the provisions of this act, may be taken over for construction and maintenance at any time subsequent to the final enactment of this act and shall be taken over not later than May 1, 1963.

(c) The highways or sections thereof, bridges, tunnels, viaducts and approaches thereto in Category III., established as State highways under the provisions of this act, may be taken over for construction and maintenance at any time subsequent to the final enactment of this act and shall be taken over not

later than May 1, 1965.

(d) The highway and bridges in Category IV., established as a State highway under the provisions of this act, may be taken over for construction and maintenance at any time subsequent to the final enactment of this act, and shall be taken over not later than January 1, 1972. (Added, 1971, Act No. 131, P. L. 527, Section 2)

Section 103. Upon the taking over for construction and maintenance by the Commonwealth of any of the highways or sections thereof, bridges, tunnels, viaducts or approaches thereto specified in this act, the Commonwealth shall thereafter assume all rights, obligations and liabilities of the county, except for any outstanding construction or reconstruction obligations and liabilities in effect at the time of such transfer relating to said highways or sections thereof, bridges, tunnels, viaducts or approaches thereto, whether the same arise by virtue of any order of the Public Service Commission, the Pennsylvania Public Utility Commission, by contract or otherwise, with respect to those highways, bridges, tunnels, viaducts and approaches thereto designated in section 101, which are located in cities of the second class and third class. This article is not intended and shall not be construed:

- (1) To place upon the Commonwealth any duty to regulate traffic upon or police such highways, bridges, tunnels, viaducts and approaches.
- (2) To place upon the Commonwealth any obligation for maintenance, construction, reconstruction or resurfacing of any highway other than the base or surface courses. The maintenance authorized by this article shall not include snow removal, street cleaning or maintenance or replacement of guide rail or drainage facilities and shall be limited to the portions available to vehicular traffic regardless of whether there are existing curbs.
- (3) To place upon the Commonwealth any obligation under any franchise or franchises heretofore granted to any public utility company.
- (4) To place upon the Department of Transportation any authority to regulate traffic, parking or the general use by the traveling public of such highways, bridges, tunnels, viaducts and approaches: Provided, however, That the Department of Transportation shall be authorized to close to traffic all of such highways, bridges, tunnels, viaducts and approaches during such time as improvements are being made thereon, and in such case the political subdivision in which the same is located shall establish and maintain a suitable detour.

The rights, powers, duties, obligations and responsibilities set forth in this section which are not placed upon or transferred to the Commonwealth and which will or would be placed upon or transferred to cities of the second and third class by existing law shall become and/or remain the rights, powers, duties, obligations and responsibilities of said cities: Provided, however, That said cities may contract with counties of the second class for an assumption by said counties of any or all said duties, obligations and responsibilities.

(103 amended July 3, 1985, P.L.159, No.43)

Section 104. It shall be lawful for the county commissioners to enter into agreements with the Secretary of Highways for sharing the construction costs or sharing or paying the property damages involved in the construction, reconstruction, relocation or improvement of any of the bridges or highways enumerated in this act. Any moneys available to the county for the payment of property damages or for the construction of highways and bridges shall be available for such purposes.

ARTICLE II.  
CITIES OF THE FIRST CLASS.

Section 201. The following public streets or sections thereof, including bridges thereon, in cities of the first class are adopted by the Commonwealth as State highways to be taken over upon the terms and conditions and subject to the limitations hereinafter contained in Article II. and shall thereafter be maintained, constructed, reconstructed and resurfaced in the same manner, with like power and authority as provided by the laws of the Commonwealth applicable to State highways, upon the terms and conditions and subject to the limitations as hereinafter provided in Article II.

Section 202. The city streets to be taken over in the City of Philadelphia are situate and described as follows:

Route 67278. Beginning at the intersection of Thirty-Eighth Street and Haverford Avenue; thence southerly on Thirty-Eighth Street to the intersection of Spruce Street and University Avenue extension; thence southerly and southeasterly on University Avenue extension and University Avenue to an intersection with Thirty-Fourth Street; thence southerly over Thirty-Fourth Street to an intersection with Vare Avenue; thence southeasterly over Vare Avenue to an intersection with Passyunk Avenue and Twenty-Sixth Street; thence southerly over Twenty-Sixth Street to an intersection with Penrose Avenue, a distance of about 4.0 miles.

Route 67279. Beginning at the intersection of Fortieth Street, Lancaster Avenue and Haverford Avenue; thence westerly over Haverford Avenue and Vine Street to an intersection with 63rd Street, a distance of about 2.4 miles.

Route 67280. Beginning at a point on the Philadelphia-Delaware County line at the intersection with Eighty-Fourth Street; thence southeasterly on Eighty-Fourth Street to Tinicum Avenue; thence northeasterly on Tinicum Avenue to Island Avenue, a distance of about 1.2 miles.

Route 67281. Beginning at the intersection of Woodland Avenue and Island Avenue; thence southeasterly on Island Avenue to the intersection of Island Avenue, Essington Avenue and Penrose Avenue, a distance of about 2.0 miles.

Route 67282. Beginning at a point on the Philadelphia-Delaware County line at the intersection with Sixty-Fifth Street; thence southeasterly on Sixty-Fifth Street to the intersection with Chester Avenue; thence northeasterly on Chester Avenue to the intersection with Sixty-Fifth Street; thence southeasterly on Sixty-Fifth Street to the intersection with Kingsessing Avenue; thence northeasterly on Kingsessing Avenue to the intersection with Fifty-Second Street; thence

Department of Highways  
December 18, 1968

*PV*  
SUBJECT:  
*1/14*

Allegheny County  
L.R. 76, Spur 2  
McKees Rocks Bridge

*also 02260 Spur 1, Section 1*

ROUTING	DATE
<del>P.M.G.</del>	<i>1/14</i>
<del>F.P.D.</del>	<i>1/20</i>
<del>B.V.P.</del>	
	<i>1/15</i>
<i>W.H.H.</i>	<i>1/20</i>

TO: David C. Sims  
Deputy Chief Engineer

FROM: John R. Rezzolla, Deputy Attorney General

It is the opinion of the Legal Bureau that maintenance responsibility for all bridges taken over in Allegheny County by virtue of Act 615 of 1961, is limited to the roadway surface between curb lines. The burden of maintenance for the balance of the structure remains on those parties who had it before the Act.

*File*

If it is felt that the balance of the structure is in such a state of disrepair as to be hazardous, and it is a P. U. C. bridge, a complaint should be filed. If it is only a river bridge, or not under P. U. C. jurisdiction, the parties responsible should be notified. In no event should the Department contract for repairs to areas other than above mentioned.

JRR:JEM:jc

*John R. Rezzolla*



RECEIVED  
Penna. Dept. of Highways  
JAN 09 1969  
CHIEF ENGINEER

Department Exhibit 2

COMMONWEALTH OF PENNSYLVANIA  
 Department of Transportation  
 Legal Bureau  
 July 11, 1973

*FILE*

SUBJECT: Allegheny County  
 L.R. 736, Spur 2  
 P.U.C. C. 18734  
 McKees Rocks Bridge

TO: Anthony J. Gaeta, P.E., District Engineer  
 Engineering District 11-0

FROM: Robert W. Cunliffe  
 Deputy Attorney General

INITIALS	DATE
<del>W. J. G.</del>	<del>7/13</del>
<del>N. H. S.</del>	<del>7/13</del>
G. T.	
L. J. J.	7/16
M. J. R.	
M. J. G.	
J. R. H.	
F. R. T.	
<i>W. J. G.</i>	7/16
<i>M. J. G.</i>	

Reference is made to your letter of July 9, 1973, requesting our advice as to whether the Department is responsible for maintaining the ramps attached to McKees Rocks Bridge.

*N.H.S. 7/17 snk*

Act No. 615 of 1961, placed the subject bridge on the State Highway System and in Sections 101, 102(a) and throughout Section 103, the Act refers not only to bridges but to "approaches thereto." In my opinion, and you are so advised, that the ramps attached to the McKees Rocks Bridge became the responsibility of the Department under the provisions of the aforesaid Act.

*Robert W. Cunliffe*

220/RWC/h

M. C. 5872-1931.

THE PUBLIC SERVICE COMMISSION  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN THE MATTER OF THE APPLICATION OF  
COMMISSIONERS OF ALLEGHENY COUNTY  
under Section 11, Article III, and  
Sections 18 and 19, Article V, of  
The Public Service Company Law,  
for approval of a contract between  
said County and  
THE PENNSYLVANIA RAILROAD COMPANY,  
relative to the construction of  
the McKees Rocks Bridge extending  
from the Borough of McKees Rocks  
across the Ohio River to the Ohio  
River Boulevard, North Side,  
Pittsburgh.

CERTIFICATE  
OF  
PUBLIC CONVENIENCE

The Public Service Commission of the Commonwealth of Pennsylvania hereby certifies that after an investigation and/or hearing had on the above entitled application, it has, by its report and order made and entered, a copy of which is hereto attached and made a part hereof, found and determined that the granting of said application is necessary and proper for the service, accommodation, convenience and safety of the public, and this certificate is issued evidencing its approval of the said application as set forth in said report and order.

In Testimony Whereof, THE PUBLIC SERVICE COMMISSION OF THE COMMONWEALTH OF PENNSYLVANIA has caused these presents to be signed and sealed, and duly attested by its Secretary at its office in the city of Harrisburg this 8th day of September, 1931.

THE PUBLIC SERVICE COMMISSION  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

Attest:

*Louis T. Weir*  
Secretary

*W. J. B. Diney*  
Chairman



THE PUBLIC SERVICE COMMISSION  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

Municipal Contract Docket No. 5872-1931.

In re: Approval of contract between COMMISSIONERS OF ALLEGHENY COUNTY  
and THE PENNSYLVANIA RAILROAD COMPANY.

REPORT AND ORDER

BY THE COMMISSION:

This case being before the Commission upon petition of COMMISSIONERS OF ALLEGHENY COUNTY, dated July 16, 1931, for approval of a contract between said County and THE PENNSYLVANIA RAILROAD COMPANY, dated May 12, 1931, relative to the construction of the McKees Rocks bridge extending from the Borough of McKees Rocks across the Ohio River to the Ohio River Boulevard, North Side, Pittsburgh;

and having been duly heard and submitted by the parties, and due investigation of the matters and things involved having been had, the Commission finds and determines that the granting of said petition is necessary and proper for the service, accommodation, convenience and safety of the public, and that a Certificate of Public Convenience issue evidencing the Commission's approval thereof:

NOW, to-wit, September 8, 1931, IT IS ORDERED:  
That a Certificate of Public Convenience issue evidencing the Commission's approval of the said contract, hereto attached.

THE PUBLIC SERVICE COMMISSION  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

*W. D. B. Mincey*  
Chairman.

ATTEST:

*Louis T. White*  
Secretary.

THIS AGREEMENT, made this 12th day of May, 1931, between the COUNTY OF ALLEGHENY, a municipal sub-division of the Commonwealth of Pennsylvania, by the Board of County Commissioners thereof, party of the first part, hereinafter called "County", and THE PENNSYLVANIA RAILROAD COMPANY, a corporation organized under the laws of Pennsylvania, by its duly authorized officers, party of the second part, hereinafter called "Company".

W I T N E S S E T H

WHEREAS, The County is engaged in the construction of a highway bridge, to be known as "McKees-Rocks Bridge", extending from McKees Rocks, County and State aforesaid, across the Ohio River to a connection with the Ohio River Boulevard, North Side, Pittsburgh, as located and shown on plans Nos. 79 and 80, adopted by the Board of County Commissioners, May 22, 1929, a copy of said plans being filed in the office of the Chief Engineer-Central Region of the said Company; and

WHEREAS, The said bridge will be constructed over the property and tracks of the Company at the location as shown on the said plan No. 80, all cost and expense in connection with the said construction to be borne entirely by the County.

NOW, THEREFORE, it is mutually agreed as follows:

1. The Company hereby consents to the construction by the County of said bridge at the location and general design as shown on said plan No. 80, and agrees to make no claim for compensation due to the crossing of its property and tracks by the said structure; provided, however, that all construction plans for the said

Exhibit A

structure, including the necessary supports and falseworks located on the property of the Company, shall be submitted to and approved by the Company.

2. The Company reserves the right to employ watchmen or flagmen necessary to protect the movement of all trains on and over the tracks of the Company during the said construction and the County agrees to pay to the Company the entire cost and expense of such watchmen or flagmen, plus fifteen percent (15%) for overhead.

3. After the completion of the said bridge, the County shall remove all falseworks and debris, if any, resulting from the construction of the said bridge, from the property of the Company.

4. It is further agreed that the County shall be obligated and it shall require its contractors at all times to use the greatest care and co-operate with the officials of the Company so as not in any way to endanger or interfere with the operation of any trains on the tracks of the Company, its telegraph, signal, and other lines, or other facilities on the property of the Company.

5. The County agrees to pay all the cost and expense of maintaining, repairing, and renewing the said bridge and (or) any future replacement thereof, including the cost and expense of watchmen or flagmen necessary for the protection of the traffic of the Company during such work of maintaining, et cetera, of the said bridge, plus fifteen percent (15%) for overhead.

6. The County agrees to indemnify, protect, and save the Company harmless from all claims, demands, damages, actions, costs, charges, and assessments of any kind whatsoever to which the Company may be subject or which it may have to pay arising from or growing out of the construction of the said bridge.

7. The County agrees to make application to and procure certificate of convenience from the Public Service Commission of the Commonwealth of Pennsylvania in approval of this contract.

IN TESTIMONY WHEREOF, said County has caused its common seal to be affixed hereto, and the same to be signed by the hands of its Board of County Commissioners, and the Company has caused this agreement to be executed by its proper officers and its corporate seal to be hereunto affixed, the day and year first above written.

Approved as to Form

Merton B. Bush  
County Solicitor

Attest

W. H. Rowley  
Chief Clerk of County Commissioners.

COUNTY OF ALLEGHENY

[Signature]  
[Signature]  
[Signature]

ATTEST:

J. J. Melan  
Asst. Secretary

THE PENNSYLVANIA RAILROAD COMPANY

By [Signature]  
Vice-President

PENNSYLVANIA PUBLIC UTILITY COMMISSION

*McKees Rocks* *LR-76 Spur 2*  
*Bridge*

Complaint Docket No. 18734

44036-C

PENNSYLVANIA PUBLIC UTILITY COMMISSION

v.

DEPARTMENT OF HIGHWAYS OF THE COMMONWEALTH  
OF PENNSYLVANIA, ALLEGHENY COUNTY, PENN  
CENTRAL TRANSPORTATION COMPANY, PITTSBURGH,  
CHARTIERS & YOUGHIOGHENY RAILWAY COMPANY,  
THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY,  
DUQUESNE LIGHT COMPANY, CITY OF PITTSBURGH,  
BOROUGH OF MCKEES ROCKS, AND TOWNSHIP OF STOWE

ORDER

BY THE COMMISSION, JANUARY 20, 1975:

The Commission, on May 12, 1969, received information from Department of Transportation of the Commonwealth of Pennsylvania that certain repairs were urgently required on the sidewalks on the bridge, known as the McKees Rocks Bridge, carrying State Highway Route 76, Spur 2, across the Ohio River between the borough of McKees Rocks and Stowe Township on the westerly side of the river to the city of Pittsburgh on the easterly side of the river all in Allegheny County. On October 31, 1969, this Commission issued an order directing that all repair work be done on the bridge structure subject to further hearing and order involving the allocation of the costs and expenses of such work. Hearing into the matters of cost maintenance allocations was held on August 1, 1973 in Pittsburgh.

The bridge, which carries State Highway Route 76, Spur 2, extends from the junction with State Highway Route 76 (Highland Avenue), in the borough of McKees Rocks, through a portion of Stowe Township to the connection where State Highway Route 652 (Ohio River Boulevard), in the city of Pittsburgh, is a 17-span structure of various types and has a total length of about 5,500 feet. The structure crosses over and above the main tracks and yard tracks of the Pittsburgh and Lake Erie Railroad Company in McKees Rocks, over two tracks of Pittsburgh,

Department Exhibit 2

Chartiers & Youghiogheny Railway Company in Stowe Township and over seven tracks of Penn Central Transportation Company in the city of Pittsburgh. The bridge provides a roadway 40 feet in width between curbs and a sidewalk varying from six to ten feet in width along each side of the bridge. The bridge was constructed by Allegheny County in compliance with the order of our predecessor, the Public Service Commission, dated September 8, 1931, at Municipal Contract Docket No. 5872.

The parties in interest at the hearing, held August 1, 1973, presented testimony and submitted exhibits relative to the cost expended by each in the repairs and reconstruction of the improvement.

Department of Transportation's Exhibit No. 5, titled "Tentative Notification to Contractor of Final Payment", presented the costs incurred by the department at the crossing. The exhibit is summarized as follows:

Bridge rehabilitation (repair of sidewalk)	\$ 509,014.64
Highway lighting	173,525.80
Navigation lighting	<u>39,920.13</u>
Total	\$ 722,460.57

The witness for the department, W. J. Clements, Civil Engineer, testified that the department agrees to assume the cost of installing the bridge lighting upon the condition that maintenance and energizing be done by others. The department is of the opinion that all other costs for rehabilitation should be placed on others than the department. The department further testified that it would leave allocation of future maintenance costs of the structure to the discretion of the Public Utility Commission.

During cross-examination the witness testified that the department only agrees to assume the cost of the highway lighting, not the navigation lighting. In addition,

the witness testified that in the opinion of the department, Legislative Act 615 puts the responsibility only of the maintenance of the roadway base and surface course between the existing curbs on the department.

Penn Central Transportation Company's witness was not able to testify, however, a written statement by the witness was submitted as testimony at the hearing. Penn Central Transportation Company is of the opinion that they should be reimbursed the cost of providing watchmen services on July 27, 1970, which amounts to \$60. The railroad company agrees to maintain in the future only its facilities under the bridge structure.

Mr. J. L. Gerst, Chief of Engineering Services, witness for Pittsburgh & Lake Erie Railroad Company, testified in regard to Pittsburgh & Lake Erie Railroad Company's Exhibit No. 1, a statement of costs incurred, that the railroad company had incurred a cost of \$568.85 for maintaining watchmen and inspection services. The railroad company is of the opinion that they should be reimbursed for the cost of these services and will only bear the cost of future maintenance of its own facilities.

Pittsburgh, Chartiers & Youghiogheny Railway Company's witness, Mr. J. L. Gerst, Chief of Engineering Services, testified that the railway company incurred no costs in connection with the repairs performed on the bridge and agrees only to maintain its own facilities in the future.

Allegheny County's witness, Mr. R. B. Waugh, Engineer for the county, testified in regard to Allegheny County's Exhibit No. 1, an agreement dated June 19, 1962 between the then Department of Highways and Allegheny County. According to this agreement Department of Highways (now Department of Transportation) took over and assumed all the maintenance and reconstruction of certain bridges within Allegheny County, of which the subject McKees Rocks Bridge is one.

During cross-examination the witness testified that the agreement between the department and the county is in connection with Legislative Act 615 or the Omnibus Bill. During redirect and recross examination, Mr. Waugh testified that Allegheny County is not agreeable to assume any of the costs of the work done on the bridge structure nor any of the costs of future maintenance of the structure.

Upon full review of the record in this proceeding, including the testimony and exhibits presented at the hearing held August 1, 1973, we are of the opinion that since this is a state highway route, PennDOT should be responsible for the lighting systems and a part of the reconstruction costs of the bridge. However, we are of the further opinion that since a majority of the repairs are to the sidewalk areas of the bridge used mostly by the county residents and these repairs can be attributed to deferred maintenance, that Allegheny County should pay its share of the reconstruction costs and we shall so order. In addition, all maintenance responsibilities of the entire bridge structure, exclusive of any railroad facilities, shall be turned over to PennDOT, in light of the fact that this bridge structure is on a state highway route and in cognizance of the agreements between Allegheny County and the state in conjunction with the bridge maintenance. Although these agreements do not affect this Commission's jurisdiction, they do show a willingness by PennDOT to take over these responsibilities.

Upon full consideration of the matters and things involved, we find and determine that our order of October 31, 1969 be supplemented by the following cost and maintenance allocation; THEREFORE,

IT IS ORDERED:

1. That any relocation of, changes in or removal of any adjacent structures, equipment or other facilities of any noncarrier public utility located within the limits of any highway within the limits of this Commission's jurisdiction, which may be required as incidental to the execution of the improvement, be made by said public utility, at its sole cost and expense, and in such manner as will not interfere with the construction of the improvement and such relocated or changed facilities thereafter be maintained by said public utility.

2. That Department of Transportation pay Trustees of Penn Central Transportation Company, a sum or sums of money equal to the actual cost of watchman or flagman services furnished by the company in compliance with Paragraph No. 6 of our order in this proceeding issued October 31, 1969.

3. That Department of Transportation pay Pittsburgh & Lake Erie Railroad Company, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to the actual cost of watchman or flagman and construction inspection services furnished by the company in compliance with Paragraph No. 4 of our order in this proceeding issued October 31, 1969.

4. That County of Allegheny pay Department of Transportation, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to fifty (50) percent of the actual cost of materials furnished and work performed by the department in reconstruction of McKees Rocks Bridge, exclusive of the lighting systems, in compliance with Paragraph No. 1 of our order in this proceeding issued October 31, 1969.

5. That Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary to complete the remainder of the reconstruction of the bridge structure.

including the installation of any lighting systems, in accordance with the approved plans in compliance with Paragraph No. 1, of our order in this proceeding issued October 31, 1969.

6. That upon completion of the reconstruction of the improvement and its opening to public use, Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary to maintain the substructure and superstructure of the bridge, paving on the bridge structure, including the sidewalks, and the approaches to the bridge, and roadway and navigation lighting.

7. That upon completion of the construction of the improvement and its opening to public use, Penn Central Transportation Company, Pittsburgh & Lake Erie Railroad Company and Pittsburgh, Chartiers & Youghiogheny Railway Company, each at their sole cost and expense, furnish all material and do all work necessary thereafter to maintain their respective tracks, wire lines and other facilities in the vicinity of the improvement.

8. That this order is without prejudice to the right of any party hereto to recover any part or all of the costs incurred by it in compliance with the terms hereof, in accordance with such prior legal agreements existing between it and any other party.

9. That our order of October 31, 1969, insofar as it is not inconsistent herewith, remain in full force and effect.

10. That all of the foregoing, insofar as it relates to Penn Central Transportation Company, is subject to the approval of the Reorganization Court (U.S. District Court, Eastern District of Pennsylvania, Railroad Bankruptcy No. 70-347, Fullam, J.) if such approval is required.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

(signed) George I. Bloom

Chairman

ATTEST:

Secretary

ORDER ADOPTED: January 20, 1975.

ORDER ENTERED:

Department Exhibit 2

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION**

**WINTER TRAFFIC SERVICES 5 – YEAR**

**AGREEMENT NO** 119944  
**FID/SSN** 256000407  
**SAP VENDOR No.** 158825

**THIS AGREEMENT**, fully executed and approved this 13th day of January, 2021, by and between the COMMONWEALTH of Pennsylvania, acting through the Department of Transportation (“COMMONWEALTH”).

**AND**  
**Borough of McKees Rocks** of the COMMONWEALTH of Pennsylvania, acting through its authorized officials (“MUNICIPALITY”).

**WITNESSETH;**

**WHEREAS**, certain public highways, including bridges with their approaches, in the MUNICIPALITY have been adopted and taken over as part of the State Highway System, to be constructed, improved and maintained by the COMMONWEALTH, upon the terms and conditions and subject to the limitations contained in the Act of May 29, 1945, P.L. 1108; the Act of June 1, 1945, P.L. 1242; and the Act of September 18, 1961, P.L. 1389; all as supplemented and amended; and,

**WHEREAS**, the MUNICIPALITY has the equipment, materials and personnel available and ready to perform snow and ice clearance together with the application of anti-skid and/or de-icing materials for certain State Highways, including bridges with their approaches, within the MUNICIPALITY, in a prompt and efficient manner and has signified its willingness to furnish these winter traffic services for the COMMONWEALTH during the Winter Season(s) of **2020 - 2021; 2021 - 2022; 2022 - 2023; 2023 - 2024; and 2024 - 2025** (the “Winter Season” for the purpose of this Agreement shall be the period from October 15 to April 30 of each season), subject to payment by the COMMONWEALTH to the MUNICIPALITY as described in this Agreement; and

**WHEREAS**, the MUNICIPALITY shall conduct its winter traffic services in a manner satisfactory to the COMMONWEALTH, in order to facilitate the safe and unimpeded flow of vehicular traffic over said State Highways within the MUNICIPALITY in accordance with the terms, covenants and conditions hereinafter set forth in this Agreement; and

**WHEREAS**, the MUNICIPALITY shall conduct the winter traffic services for and in the agreed amount during the term of this Agreement, regardless of the amount of work required.

**NOW, THEREFORE**, the parties hereto, for and in consideration of the foregoing premises and of the mutual promises set forth below, with the intention of being legally bound, agree as follows:

1. The MUNICIPALITY shall undertake and accomplish the required snow and ice clearance together with the application of anti-skid and/or de-icing materials for the State Highways, including bridges and their approaches, as indicated in Exhibit “A” attached to and made part of this Agreement. The MUNICIPALITY shall perform all work in accordance with all applicable PennDOT Specifications (“Publication 408”), policies and procedures set forth in the PennDOT Highway Maintenance Foreman Manual (“Publication 113”) and the PennDOT Maintenance Manual (“Publication 23”), which all are incorporated by reference into this Agreement as though physically attached. This work shall be performed in a prompt and efficient manner so as to facilitate the safe and unimpeded flow of vehicular traffic over the State Highways within the MUNICIPALITY.

**Department Exhibit 3**



2. If, to undertake and accomplish the duties required in Paragraph (1.), the MUNICIPALITY'S forces must traverse a bridge with a posted weight restriction, the MUNICIPALITY agrees to file a permit application with the posting authority and obtain a permit to traverse the bridge pursuant to 67 Pa. Code Chapter 191. The MUNICIPALITY agrees to refile permit applications as needed during the term of this Agreement and to obtain permits for each succeeding winter season for which this Agreement is renewed. Failure to obtain such permits shall be grounds for termination of this Agreement.
3. The COMMONWEALTH shall pay to the MUNICIPALITY, as reimbursement for the services contracted for in this Agreement, the total sum of the rate established for each particular season, as set forth on Exhibit "A," payable on or before November 15th, for each successive Winter Season through the termination of the Agreement. The starting date of this Agreement shall be the date on which the Agreement has been fully executed and approved by the COMMONWEALTH, or the date agreed to by both the MUNICIPALITY and the COMMONWEALTH, whichever comes later. Further, the MUNICIPALITY shall not be permitted to start any work until notified by the COMMONWEALTH that the Agreement has been fully executed and approved, except as set forth in Paragraph 4 below. The MUNICIPALITY shall perform all services for the rates set forth in Exhibit "A," regardless of the amount of work required. The COMMONWEALTH is not responsible for paying additional amounts when the MUNICIPALITY incurs costs for the work in excess of the established rate or does not otherwise meet the guidelines contained in the "Severe Winter Adjustment" both set forth in Exhibit "A" of this Agreement.
4. The MUNICIPALITY undertakes the responsibilities as an independent contractor and its employees and/or lessors or contractors shall not be considered employees of the COMMONWEALTH for any purpose. This Agreement shall be considered a maintenance contract between a Commonwealth agency and a local agency for purposes of 42 Pa. C.S. 8542(b)(6)(ii), relating to acts which may impose liability on local agencies. Further, this Agreement shall not be construed for the benefit of any person or political subdivision not a party to this Agreement, nor shall this Agreement be construed to authorize any person or political subdivision not a party to this Agreement to maintain a lawsuit on or under this Agreement.
5. In the event a winter emergency occurs that necessitates winter traffic services prior to the execution of this Agreement, the District Executive on behalf of the COMMONWEALTH may issue a written letter to the MUNICIPALITY finding that an emergency exists under Section 516 of the Procurement Code and authorizing the MUNICIPALITY to perform the services required by this Agreement subject to the terms and conditions of this Agreement. If the MUNICIPALITY receives an emergency winter traffic services letter from the District Executive prior to execution of this Agreement, because of the critical need to provide winter traffic services to assure public safety on the State Highway System, the COMMONWEALTH shall pay the MUNICIPALITY for any costs incurred to service State Highways as a result of the onset of winter weather emergency necessitating the provision of the services under this Agreement between the beginning of the Winter Season and full execution of this Agreement.
6. The obligations of the MUNICIPALITY under this Agreement shall terminate and end as of midnight on April 30th for each Winter Season.
7. Work performed by the MUNICIPALITY under this Agreement shall be done to the satisfaction of the COMMONWEALTH. Such work shall be subject to inspection by the Secretary of Transportation, the District Executive, and/or their duly authorized representatives.
8. If the MUNICIPALITY fails to comply with the terms of this Agreement to the satisfaction of the COMMONWEALTH, the COMMONWEALTH may terminate the Agreement upon giving ten (10) days written notice to the MUNICIPALITY. If the Agreement is so terminated, then the COMMONWEALTH shall not be further obligated to pay any amount of money to the MUNICIPALITY and the MUNICIPALITY shall be entitled to funds from the COMMONWEALTH in proportion to the period of the Agreement for which services were provided. Therefore, the MUNICIPALITY shall refund to the COMMONWEALTH the balance of the lump sum payment within thirty (30) days of receiving notice from the COMMONWEALTH of the amount due.
9. The COMMONWEALTH reserves the right to terminate this Agreement for convenience if it determined

that termination is in the best interest of the COMMONWEALTH. If the Agreement is so terminated, then the COMMONWEALTH shall not be further obligated to pay any amount of money to the MUNICIPALITY, the MUNICIPALITY shall not be further obligated to perform, and the MUNICIPALITY shall be entitled to payment for all eligible actual costs incurred by the MUNICIPALITY pursuant to this Agreement up to the date when termination is effective.

10. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101—3104, applies to this Agreement. Therefore, this Agreement is subject to, and the MUNICIPALITY shall comply with, the clause entitled Contract Provisions – Right to Know Law, attached as Exhibit “B” and made a part of this Agreement. As used in this exhibit, the term “Contractor” refers to the MUNICIPALITY.
11. The MUNICIPALITY shall comply with the following clauses or provisions attached as Exhibit “C” and incorporated here by reference: The most current versions of the Commonwealth Nondiscrimination / Sexual Harassment Clause, the Contractor Integrity Provisions the Provisions Concerning the Americans with Disabilities Act, the Contractor Responsibility Provisions, and the Enhanced Minimum Wage Provisions.
12. The MUNICIPALITY agrees that the COMMONWEALTH may set off the amount of any state tax liability or other obligation of the MUNICIPALITY or its subsidiaries to the COMMONWEALTH against any payments due the MUNICIPALITY under any contract with the COMMONWEALTH.
13. Because the COMMONWEALTH will be making payments under this Agreement through the Automated Clearing House (“ACH”) Network, the MUNICIPALITY shall comply with the following provisions governing payments through ACH:
  - (a) The COMMONWEALTH will make payments to the MUNICIPALITY through ACH. Within 10 days of the execution of this Agreement, the MUNICIPALITY must submit or must have already submitted its ACH information on a ACH enrollment form (obtained at [www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf](http://www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf)) and electronic addenda information, if desired to the Commonwealth’s Payable Service Center, Vendor Data Management Unit at 717-214-0140 (FAX) or by mail to the Office of Comptroller Operations, Bureau of Payable Services, Payable Service Center, Vendor Data Management Unit, 555 Walnut Street – 9<sup>th</sup> Floor, Harrisburg, PA 17101.
  - (b) The MUNICIPALITY must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania’s ACH remittance advice to enable the contractor to properly apply the state agency’s payment to the respective invoice or program.
  - (c) It is the responsibility of the MUNICIPALITY to ensure that the ACH information contained in the Commonwealth’s Central Vendor Master File is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.
14. The Department of Transportation and other agencies of the Commonwealth of Pennsylvania may, at reasonable times and places, audit the books and records of the MUNICIPALITY to the extent that they relate to the MUNICIPALITY’s performance of this Agreement and the costs incurred by the MUNICIPALITY in providing services under it. The MUNICIPALITY shall maintain the books and records for a period of three (3) years from the date of final payment under the Agreement, including all renewals.
15. The Agreement constitutes the entire agreement between the parties. No amendment or modifications of this Agreement shall be valid unless it is in writing and duly executed and approved by both parties.

16. This Agreement shall automatically renew for succeeding Winter Seasons at the rate established for each particular season unless either party shall terminate upon written notice to the other on or before July 31<sup>st</sup> preceding the Winter Season in question.
  
17. The COMMONWEALTH has implemented a Strategic Environmental Management Program (SEMP) which complies with the ISO 14001:2004 standard. As part of SEMP, the COMMONWEALTH has established a Green Plan Policy that can be found at [www.dot.state.pa.us](http://www.dot.state.pa.us) and is also posted at the COMMONWEALTH's District and County Offices. The Green Plan Policy is designed to protect the environment, conserve resources and comply with environmental laws and regulations. The MUNICIPALITY shall ensure that its personnel (including the personnel of any of its subcontractors) are aware of the COMMONWEALTH's commitment to protecting the environment, are properly trained about the environmental impacts of their work and are competent (through appropriate work experience, job training or classroom education) to perform the work that they do.

**(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)**

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST

MUNICIPALITY

HeeAnn Wynniale 9-15-2020  
Title: Assistant Borough Secretary DATE

BY North A. Amyes 9-15-2020  
Title: Borough Manager DATE

If a Corporation, the president or Vice-president must sign and the Secretary, Treasurer, Assistant Secretary or Assistant Treasurer must attest; if a sole proprietorship, only the owner must sign; if a partnership, only one partner need sign; if a limited partnership, only the general partner must sign. If a MUNICIPALITY, Authority or other entity, please attach a resolution.

DO NOT WRITE BELOW THIS LINE – FOR COMMONWEALTH USE ONLY

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

Cheryl Moon-  
BY Sirianni  
District Executive Date

Digitally signed by Cheryl Moon-Sirianni  
Date: 2021.01.07 09:24:04 -05'00'

APPROVED AS TO LEGALITY  
AND FORM

[Signature] 1/8/2021  
for Chief Counsel Date

Certified Funds Available Under  
SAP DOCUMENT NO. 3900039536  
SAP FUND 1058200712 FY (20,21,22,23,24)  
SAP COST CENTER 7841110000  
GL. ACCOUNT 6344450  
AMOUNT

BY Rick Zettlemoyer  
for Comptroller Operations Date

Digitally signed by Rick Zettlemoyer  
Date: 2021.01.13 11:51:34 -05'00'

Contract No. 119944 is split 0%, expenditure amount of 0.00, for federal funds and 100%, expenditure amount of \$ 54,807.23 for state funds. The related federal assistance program name and number is N/A; N/A. The state assistance program name and SAP Fund is Highway Maintenance; 582.

Preapproved Form: OGC No. 18-FA-34.1  
Appv'd OAG 11/09/2015

**RESOLUTION**

BE IT RESOLVED, by authority of the Borough Council  
 (Name of governing body)  
 of the Borough of McKees Rocks, Allegheny County, and it  
 (Name of MUNICIPALITY)  
 is hereby resolved by authority of the same, that the Borough Manager of  
 (designate official title)  
 said MUNICIPALITY be authorized and directed to sign the attached Agreement on its behalf.

**ATTEST:**

ReeAnna Wojcik, Assistant Borough Secretary By: Ruth A. Pompey, Borough Manager  
 (Signature and designation of official title) (Signature and designation of official title)  
Borough of McKees Rocks  
 (Name of MUNICIPALITY)

I, Ruth A. Pompey, Borough Manager  
 (Name) (Official title)

of the Borough Council of Borough of McKees Rocks do hereby certify that the foregoing  
 (Name of governing body and MUNICIPALITY)

is a true and correct copy of the Resolution adopted at a regular meeting of the  
Borough Council, held the 15<sup>th</sup> day of September, 2020.  
 (Name of governing body)

DATE: 9-15-2020 Ruth A. Pompey, Borough Manager  
 (Signature and designation of official title)

**NOTE: Signature on the Department signature page of this Agreement must conform with signature on this Resolution.**



**Attachment "A"**

**Fiscal Year 2020/21 Municipal Winter Traffic Services Agreements Rate Schedule**

Published by the Pennsylvania Department of Transportation Bureau of Maintenance and Operations

District	County	MFC RATES Per Snow Lane Mile		
		B	C	D/E
1	Crawford		\$2,042.33	\$1,845.67
	Erie		\$2,042.33	\$1,845.67
	Forest		\$1,451.09	\$1,267.30
	Mercer		\$1,451.09	\$1,267.30
	Venango		\$1,451.09	\$1,267.30
	Warren		\$2,042.33	\$1,845.67

2	Centre		\$1,382.98	\$1,203.03
	Clearfield		\$1,451.09	\$1,267.30
	Clinton		\$1,382.98	\$1,203.03
	Cameron		\$1,382.98	\$1,203.03
	McKean		\$1,785.26	\$1,584.75
	Potter		\$1,560.35	\$1,364.97
	Mifflin		\$1,183.73	\$989.67
	Elk		\$1,451.09	\$1,267.30
	Juniata		\$1,183.73	\$989.67

3	Columbia		\$1,183.73	\$989.67
	Lycoming		\$1,382.98	\$1,203.03
	Montour		\$1,183.73	\$989.67
	Northumberland		\$1,183.73	\$989.67
	Snyder		\$1,183.73	\$989.67
	Sullivan		\$1,382.98	\$1,203.03
	Tioga		\$1,560.35	\$1,364.97
	Union		\$1,183.73	\$989.67
	Bradford		\$1,560.35	\$1,364.97

4	Lackawanna		\$1,560.35	\$1,364.97
	Luzerne		\$1,560.35	\$1,364.97
	Pike		\$1,382.98	\$1,203.03
	Susquehanna		\$1,560.35	\$1,364.97
	Wayne		\$1,382.98	\$1,203.03
	Wyoming		\$1,382.98	\$1,203.03

5	Berks		\$974.24	\$791.75
	Carbon		\$1,382.98	\$1,203.03
	Lehigh		\$974.24	\$791.75
	Monroe		\$1,382.98	\$1,203.03
	Schuylkill		\$1,183.73	\$989.67

6	Bucks	\$1,267.29	\$1,183.74	\$1,095.91
	Chester	\$1,267.29	\$1,183.74	\$1,095.91
	Delaware	\$1,267.29	\$1,183.74	\$1,095.91
	Montgomery	\$1,267.29	\$1,183.74	\$1,095.91
	Philadelphia	\$1,267.29	\$1,183.74	\$1,095.91

8	Adams		\$1,183.73	\$989.67
	Cumberland		\$1,183.73	\$989.67
	Franklin		\$1,183.73	\$989.67
	York		\$1,183.73	\$989.67
	Dauphin		\$1,183.73	\$989.67
	Lancaster		\$1,183.73	\$989.67
	Perry		\$1,183.73	\$989.67

District	County	MFC RATES Per Snow Lane Mile		
		B	C	D/E
9	Bedford		\$1,183.73	\$989.67
	Blair		\$1,183.73	\$989.67
	Cambria		\$1,944.63	\$1,764.70
	Fulton		\$1,069.36	\$907.42
	Huntingdon		\$1,183.73	\$988.39
	Somerset		\$1,944.63	\$1,764.70

10	Armstrong		\$1,451.09	\$1,267.30
	Butler		\$1,451.09	\$1,267.30
	Clarion		\$1,451.09	\$1,267.30
	Indiana		\$1,451.09	\$1,267.30
	Jefferson		\$1,451.09	\$1,267.30

11	Allegheny	\$1,944.64	\$1,764.69	\$1,560.35
	Beaver	\$1,944.64	\$1,764.69	\$1,560.35
	Lawrence	\$1,451.09	\$1,451.09	\$1,267.30

12	Fayette		\$1,636.18	\$1,435.66
	Greene		\$1,451.09	\$1,267.30
	Washington		\$1,451.09	\$1,267.30
	Westmoreland		\$1,636.18	\$1,435.66

In the event an MFC "B" road is serviced by a municipality, they are to be paid at the MFC "C" rate except District 6-0 & 11-0.

\* NO MFC "A" ROADS ARE TO BE SERVICED BY MUNICIPALITIES.

\*\* ALL PAYMENTS ARE BASED ON SNOW LANE MILES

**Department Exhibit 3**

EXHIBIT B

**Contract Provisions – Right to Know Law**

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:
1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
  2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth’s determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth.

g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession .

## **NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE [Contracts]**

The Contractor agrees:

- 1.** In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this commonwealth who is qualified and available to perform the work to which the employment relates.
- 2.** Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
- 3.** Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under the contract.
- 4.** Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the *Public Employee Relations Act*, *Pennsylvania Labor Relations Act* or *National Labor Relations Act*, as applicable and to the extent determined by entities charged with such Acts' enforcement, and shall comply with any provision of law establishing organizations as employees' exclusive representatives.
- 5.** The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
- 6.** The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- 7.** The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment

Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

- 8.** The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
- 9.** The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
- 10.** The commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

### **Department Exhibit 3**

#### Exhibit C

## EXHIBIT "C"

**CONTRACTOR INTEGRITY PROVISIONS**

It is essential that those who seek to contract with the Commonwealth of Pennsylvania ("Commonwealth") observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth contracting and procurement process.

**1. DEFINITIONS.** For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:

- a. **"Affiliate"** means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
- b. **"Consent"** means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.
- c. **"Contractor"** means the individual or entity that has entered into this contract with the Commonwealth.
- d. **"Contractor Related Parties"** means any affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.
- e. **"Financial Interest"** means either:
  - (1) Ownership of more than a five percent interest in any business; or
  - (2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- f. **"Gratuity"** means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the Governor's Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b), shall apply.
- g. **"Non-bid Basis"** means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

**2.** In furtherance of this policy, Contractor agrees to the following:

- a. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.

- b. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
- c. Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.
- d. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.
- e. Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:
  - (1) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
  - (2) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
  - (3) had any business license or professional license suspended or revoked;
  - (4) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
  - (5) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract it becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for

cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

- f. Contractor shall comply with the requirements of the Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.) regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a).
- g. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.
- h. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- i. Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.
- j. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not

preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

EXHIBIT "C"

**PROVISIONS CONCERNING *THE AMERICANS WITH DISABILITIES ACT***

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, supplier, or grantee, who will furnish or perform or seeks to furnish or perform, goods, supplies, services, construction or other activity, under a purchase order, contract, or grant with the Commonwealth of Pennsylvania (Commonwealth).

During the term of this agreement, the contractor agrees as follows:

1. Pursuant to federal regulations promulgated under the authority of *The Americans with Disabilities Act*, 28 C. F. R. § 35.101 *et seq.*, the contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this agreement or from activities provided for under this agreement. As a condition of accepting and executing this agreement, the contractor agrees to comply with the "*General Prohibitions Against Discrimination*," 28 C. F. R. § 35.130, and all other regulations promulgated under *Title II of the Americans with Disabilities Act* which are applicable to the benefits, services, programs, and activities provided by the Commonwealth through contracts with outside contractors.
2. The contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth as a result of the contractor's failure to comply with the provisions of paragraph 1.

## EXHIBIT "C"

**Contractor Responsibility Provisions**

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

**1.** The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.

**2.** The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.

**3.** The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

**4.** The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.

**5.** The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

**6.** The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services  
Office of Chief Counsel  
603 North Office Building  
Harrisburg, PA 17125  
Telephone No: (717) 783-6472  
FAX No: (717) 787-9138

## Enhanced Minimum Wage Provisions (July 2018)

- 1. Enhanced Minimum Wage.** Contractor/Lessor agrees to pay no less than \$12.00 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.
- 2. Adjustment.** Beginning July 1, 2019, and annually thereafter, the minimum wage rate shall be increased by \$0.50 until July 1, 2024, when the minimum wage reaches \$15.00. Thereafter, the minimum wage rate would be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware, and Maryland. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.
- 3. Exceptions.** These Enhanced Minimum Wage Provisions shall not apply to employees:
  - a. exempt from the minimum wage under the Minimum Wage Act of 1968;
  - b. covered by a collective bargaining agreement;
  - c. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
  - d. required to be paid a higher wage under any state or local policy or ordinance.
- 4. Notice.** Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.
- 5. Records.** Contractor/Lessor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.
- 6. Sanctions.** Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.
- 7. Subcontractors.** Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

EXHIBIT "C"

## APPENDIX B

### DEPARTMENT RESPONSIBILITY BEYOND CURBLINES

The Department's policy with regard to legal responsibility for maintenance beyond curb lines is as follows:

#### POLICY

**1. Highways in First-Class Cities**

Department of Transportation may not perform any maintenance beyond the face of curb (except that the P.U.C. may order such maintenance on bridges under its jurisdiction), unless, with respect to Act 615 highways only, it has entered into an agreement assuming such maintenance.

**2. County Highways Taken over by Act 615 of 1961**

Department of Transportation may not perform any maintenance (1) beyond portions available to vehicular traffic or (2) upon guiderail and drainage facilities, unless it has entered into an agreement assuming such maintenance.

**3. Highways in Boroughs, Incorporated Towns and Cities Other than First Class**

Department of Transportation will not perform any maintenance beyond curb lines except as required to maintain the structural integrity of the highway, such as slopes, walls, etc., unless, with respect to Act 615 highways only, Department has entered into an agreement assuming such maintenance.

Where some properties are curbed and others are not, the curb lines can be projected on the uncurbed properties.

If there are no existing curb lines, the Secretary can indicate on a plan of public record the width of the street or highway the Department will maintain.

**4. State Routes that had the Old Five-digit L.R. Numbers in Townships**

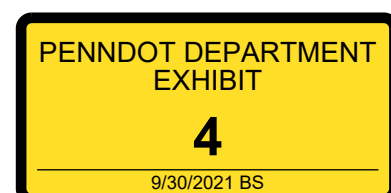
Department of Transportation may perform maintenance beyond curb lines. Where the Department has not assumed responsibility to perform such maintenance, townships may do so.

**5. State routes that had the Old One, Two, Three, or Four-Digit L.R. Numbers in Townships**

Department of Transportation will perform maintenance beyond curb lines.

Additional details related to drainage responsibilities within and beyond curblines can be found in this Publication (Publication 23) in Chapter 8, Drainage and Drainage Systems.

Department Exhibit 4



it is important to recognize exceptional situations where PennDOT could be held liable for more extensive remediation, beyond the immediate work area.

Procedures to address waste management concerns on a particular project should be added to the construction specifications. Where minor soil contamination occurs, a special provision could be as simple as requiring that excavated soil be incorporated into an embankment. Where the degree of contamination is greater, special provisions are likely to be more complicated, and may require disposing soil off-site, controlling dust, and treating water prior to discharging to a stream.

**10. Habitat Mitigation.** Depending on project location and extent of wildlife habitat disturbance, preparation of a plan for habitat mitigation may be required based on coordination with the District Environmental Manager. The project landscape design should be developed to include plantings (native to Pennsylvania) that maximize wildlife habitat value. In some cases, acquiring additional property to be added as State Managed Habitat Reserves may be a suitable mitigation measure. Roadside plantings should be sensitive to existing landscape settings. In addition, roadside plantings with wildlife habitat value should consider safety issues in regard to attracting wildlife at or near roadways.

**11. Cultural Resource Preservations.** During Final Design, particular attention must be devoted to monitoring of cultural resources mitigation commitments associated with avoiding or minimizing effects where practical, feasible, and appropriate. Where there may be changes to a commitment, coordination with the appropriate agencies should be initiated. Mitigation commitments for cultural resources would be contained in the Mitigation Report and/or the Memorandum of Agreement. Appropriate measures to provide special protection for historic or archaeological sites during construction should be considered and incorporated into the special provisions. For example, archaeological sites may exist along the alignment that should be protected by restricting construction access with protective fencing. Vegetative screening also may be considered as a permanent means to minimize visual impacts to historic sites.

**12. Noise Abatement Measures.** Noise analyses conducted during Final Design shall address the mitigation of noise impacts identified during the Preliminary Engineering/Environmental Clearance phase of the project. For noise analyses conducted during Preliminary Engineering/Environmental Clearance phase, reference Publication 24, *Project Level Highway Traffic Noise Handbook*. The goal of Final Design noise Analysis is to re-evaluate design year noise levels under the selected alternative and to consider noise abatement options were deemed warranted, feasible and reasonable based on PennDOT's current noise policy. Precise barrier locations and design options are defined at this stage and coordinated with affected communities.

Proposed noise mitigation is evaluated during Final Design and must meet all the criteria identified in Publication 24, *Project Level Highway Traffic Noise Handbook* to be recommended for construction as part of the project. The PennDOT Noise Abatement Criteria specifically deals with warrants, feasibility criteria, and reasonableness considerations. A detailed explanation of the Noise Abatement Criteria can be referenced in Publication 24, *Project Level Highway Traffic Noise Handbook*. The most current version of Publication 24, *Project Level Highway Traffic Noise Handbook* should be referenced in order to determine the appropriate cost factors used for reasonableness calculations.

All recommended noise mitigation identified in Final Design should be reviewed by the sponsoring agency before coordination with the public is initiated, which is part of the final reasonableness determination. Once the affected public is presented information specific to their area, their desires related to the proposed abatement methods shall be recorded. It is important to note that at any time during final design, the public has the right to refuse the abatement, at which time the decision is documented. Should the community accept the final noise abatement proposal, noise abatement will proceed into the Plans, Specifications and Estimates (PS&E) and construction.

#### **H. Roadway Lighting.**

**1. General Lighting Policies.** Any exceptions or waivers to the general lighting policies must be approved by the Deputy Secretary for Highway Administration. To obtain these approvals, Districts are requested to submit the approval request with justification to the Director, Bureau of Maintenance and Operations for coordination with the Deputy Secretary for Highway Administration or the FHWA. Districts should not send the approval request directly to the Deputy Secretary for Highway Administration or directly to the FHWA.

The implementation of lighting should be based on Publication 13M, Design Manual Part 2 (DM-2), *Highway Design*, Chapter 5, Lighting guidance and/or the AASHTO Roadway Lighting Design Guide (RLDG) which provides warrants and/or recommendations for the following locations:

- Certain Interchange and Controlled Access Facilities
- Major Arterials in Urban Areas
- Certain High Crash Locations

For locations where neither Publication 13M, DM-2 nor the AASHTO RLDG provides warrants and/or recommendations, PennDOT may still provide lighting systems, such as for interchanges, intersections, bridges, and other locations at the discretion of the District Executive. The cost of the installation will be financed by appropriate State, Federal and Local funds unless privately funded.

Other locations generally include enhancement projects (streets, walkways, and bicycle lanes, and consistent with funding source requirements), temporary roadways, roadside rest areas, tunnels, park-and-ride areas, truck weigh stations, truck escape ramps, and traffic signal mounted lighting.

The Commonwealth will retain ownership of all highway lighting systems installed by PennDOT on Interstate Routes and on interchanges formed by two Appalachian Development Highway Systems (ADHS) highways that have not yet been constructed and pay for the total cost of energy and maintenance.

For highway lighting systems installed on interchanges where applicable AASHTO RLDG warrants are met, other than Interstate Route interchanges, and closed ADHS interchanges that have not yet been completed, the local government must assume in writing the obligation of ownership and also pay half of the annual energy and maintenance charges. The other half is to be paid by the State. PennDOT, by agreement, will turn over the ownership of the complete system to the local government under the conditions of the agreement, including the following:

- Maintenance will be performed in a manner and on a schedule satisfactory to PennDOT.
- Any agreement entered into with a local electric utility company will contain a clause prohibiting use of the lighting facilities for any purpose other than the lighting of highways or signs.
- When a replacement lighting system is required, it will be subject to PennDOT approval.

On an interchange where the applicable AASHTO RLDG warrants are not met, but the local government requests lighting and agrees in writing to assume the total cost of installation as well as the annual energy and maintenance costs, the AASHTO RLDG warrant requirement may be waived and permission given for the installation subject to the approval of the Deputy Secretary for Highway Administration.

Provisions for other lighting will be handled as follows:

- On new or reconstructed bridges, PennDOT will install, at its expense, lighting standards - providing the local government agrees in writing to assume the ownership and the costs of energy and maintenance.
- On existing bridges, the updating or installation of lighting systems shall meet PennDOT's standards and be approved by BOMO-MTLD. The local government must agree in writing to assume the ownership and the costs of construction, energy, and maintenance.
- On intersections, such as roundabouts where PennDOT guidance recommends lighting, PennDOT will install, at its expense, lighting standards - providing the local government agrees in writing to assume the ownership and the costs for energy and maintenance or as stipulated in the maintenance agreement.

When local governments do not agree to the payment of the energy and maintenance costs, the District Executive or the Deputy Secretary for Highway Administration may consider one of the following:

- Apply cost sharing.
- Have PennDOT cover the energy and maintenance costs.
- Install provisions for future lighting, in which case, PennDOT will typically provide the following:
  - Interchanges and Intersections. Conduit, in accordance with Publication 408, *Specifications*, shall be provided under pavements at all anticipated electric cable distribution crossings. These locations shall be identified on the plans by a Station plus number.
  - Bridges. As determined by the District Executive.

Conversion of existing lighting systems from High Pressure Sodium (HPS) to Light Emitting Diode (LED) is acceptable when a life cycle cost analysis shows the conversion to be economical. There may be an advantage both in terms of energy and maintenance. Refer to Publication 13M, DM-2, Chapter 5 for more information.

**2. Lighting Design Approval Procedures.** During the early stages of Final Design, the District shall obtain comments from BOMO-MTLD relative to the installation of lighting. Recommendations shall be based on the District Executive's knowledge of the local situation and shall stipulate to install lighting now; specify provisions for future lighting; or specify no provisions for lighting now or in the future.

If other than Interstate or closed ADHS interchange, the District Executive or qualified representative (not the Consultant) must obtain from the local government a letter of intent to initiate the design and a signed agreement meeting the General Lighting Policies discussed previously, if the local government will be maintaining the lighting.

The District will arrange for a pre-design meeting for the proposed lighting with BOMO-MTLD during the early stages of Final Design. The purpose of this meeting is to review requirements and establish design parameters including the following:

- a. Purpose of lighting, limits of work, funding source(s).
- b. Current design manuals, standards and criteria
- c. Luminaire and pole selections.
- d. Mounting heights
- e. Light Loss Factor (LLF) to be applied to photometric calculations.
- f. Minimum average maintained illumination at End of Rated Life (ERL).
- g. Maximum uniformity ratio (average/minimum).
- h. Maximum veiling luminance (glare) ratio.
- i. Coordination of proposed lighting with adjacent roadways.

All designs must conform with Publication 13M, Design Manual Part 2, *Highway Design*, Chapter 5; Publication 14M, Design Manual Part 3, *Plans Presentation*; Publication 408, *Specifications*; Standard Drawings; AASHTO; pre-design meeting items; and other pertinent specifications and/or drawings.

The District (or its designated consultant) will prepare and distribute the minutes of the meeting to all attendees.

The preliminary lighting plans and calculations shall be transmitted electronically by the District to BOMO-MTLD for approval. All information for the lighting system shall be shown on a 1 in = 100 ft or 1 in = 50 ft scale plan.

Justification for the proposed lighting shall be furnished to BOMO-MTLD with the initial design submission. The plans must show the applicable AASHTO warrants listed in AASHTO's *Roadway Lighting Design Guide* and should state the conditions. When the warrant is based on ADT (estimated ADT when the facility will be opened for traffic), show the ADT on the mainline, crossroads and ramps. If the ADT is below that required by AASHTO warrants, supporting justification for the present lighting shall be given on the plans. Note that the applicable AASHTO warrants and ADTs are not to be shown on the final lighting plans.

Refer to Publication 13M, Design Manual Part 2, *Highway Design*, Chapter 5 for specific information about the requirements for the Preliminary Lighting plans, calculations, and report.

BOMO-MTLT will review the preliminary plans and calculations and submit comments and/or approval to the District.

The location of all lighting pole anchorages on bridges shall be shown on the bridge drawings (for appropriate locations of lighting poles on bridges to minimize maintenance and vibrations, refer to Publication 15M, Design Manual Part 4, *Structures*).

Final lighting plans, special provisions and wire size calculations will be prepared and transmitted electronically to BOMO-MTLT for approval prior to release of the final plans to the District Office for PS&E development (refer to Publication 14M, Design Manual Part 3, *Plans Presentation*, Chapter 9; pre-design meeting items; and Publication 13M, Design Manual Part 2, *Highway Design*, Chapter 5 for additional final design requirements).

The District Executive must approve items involving structural considerations that are not fully covered by the Standard Drawings or Specifications for highway lighting prior to the final lighting plans submission to BOMO-MTLT. A copy of the letter of approval from the District Executive for the items shall be included with the final lighting plans submission to BOMO-MTLT. Items that require approval from the District Executive are special foundations, special lighting poles, special supports or mountings, etc.

**3. Legal Agreement Review and Preparation Procedures.** If the agreement between PennDOT and the local government is prepared at the District level, the District Executive shall submit the draft to the Office of Chief Counsel (OCC) for review, together with one set of final lighting plans for review (several revision cycles may be necessary). OCC's Lighting Agreement template or a combined Agreement template which includes Lighting should be used. The agreement shall include the following general information:

- Names of the county, State Route, section and required highway station numbers of the section of the State highway involved.
- Full names of parties, specifying whether corporate, partnership or individual, together with their place of business addresses.
- Short statement of purposes to be served by the agreement.
- Complete description and drawing or plot plan of the area affected by the terms of the agreement.
- Statement of the work or obligations to be performed by each of the parties of the agreement, including amounts, times and portions thereof.
- The total costs and allocations of the costs of the work to be performed, including the terms, times and proportions of payments for the work.
- Responsibilities for future maintenance of the completed work.
- Any special provisions or requirements that should be made a part of the agreement.

**4. Guidelines for Highway Lighting Agreements with Electric Utility Companies.** These agreements are prepared by the Electric Utility Companies and initiated during construction by the District Executive for the supply of electricity. The cost of the provisions to supply the electricity, such as line extension and/or facility charges, is a proper project construction charge. The cost of electricity used to energize the system is a proper maintenance charge.

When a lighting agreement with the electric utility company is required for systems owned by the Commonwealth, it should be initiated during construction by the District Executive. The electric utility

company will bill the District Office/County for the energy usage. Billing by the local electric utility company shall be for metered service unless PennDOT approved un-metered energy only rate is available.

When an existing HPS lighting system is retrofitted to LED, the District shall contact the electric utility company to coordinate the adjustment of the electricity rate structure.

The electric service locations shown on the plans should be confirmed in writing by the electric utility company, and line extension charges, if any, determined at the time. Charges by the electric utility company for line extension or facilities are to be paid as one-time, lump sum, project construction cost. Such charges are never to be deferred or included in the periodic billing for energy. The one-time, lump sum payment to the electric utility company for line extension and/or facility costs may be procured through a Service Purchase Contract. Payment shall be encumbered with an SAP-7 against the project and paid through SAP transaction code FB60 when the work is completed. The amount of these charges by the electric utility company is based on their cost to provide the service facilities required with relation to the energy usage anticipated.

When processing agreements, as many copies of the agreement as there are parties to the same (usually two) must be hand-signed by the proper official of the local electric utility company and sent to the District Office. The electric utility company must include a resolution or other delegation of signature authority if the agreement is executed by someone other than the president or a vice president and attested by someone other than the secretary, assistant secretary, treasurer, or assistant treasurer. Under certain circumstances, in order to save time, the Commonwealth will execute the electric utility company's prepared forms in the first instance before signing by the proper officials of the electric utility company, but this practice should be discouraged as contrary to customary procedure. The agreement should be checked for accuracy and conformity with the Commonwealth policy by the District Office and such objectionable terms that would require the Commonwealth to indemnify and save harmless the electric utility company shall be eliminated since this cannot be done legally without legislative authority. In addition, such agreement should provide for a definite termination date either by passage of a certain period or by notice of intention to terminate.

After all copies of the agreement have been signed by the local electric utility company and approved by the District Office as indicated above, they should be forwarded by the District Office to the Bureau of Project Delivery, Utility & Right-of-Way Section to check for compliance with PennDOT's policy directives. In the forwarding letter to Bureau of Project Delivery, the District must indicate the proper method of funding of the costs involved in carrying out the agreement. Upon approval, the Bureau of Project Delivery will forward the copies of the agreement to the Office of Chief Counsel for final processing and subsequent distribution.

In the final processing procedure conducted by the Office of Chief Counsel, the required copies of the agreement are transmitted to the Bureau of Fiscal Management for budget purposes. Then they are transmitted to the Deputy Secretary for Highway Administration for signature. When these procedures have been completed, the copies of the agreement are returned to the Office of Chief Counsel for approval as to form and legality, the Office of General Counsel (if necessary) and the Office of Attorney General and thereafter to the Comptroller for fiscal approval. Only after approval by the Comptroller does the agreement become a legal obligation of the Commonwealth. The Comptroller retains either a hand signed or signature stamped copy of the fully executed agreement for its files and the Office of Chief Counsel returns the remaining hand signed or stamped copies to the District. The District then distributes copies of the executed agreement as follows:

- Bureau of Project Delivery - one copy.
- State Treasurer - one copy.
- District Office - one hand signed copy for each party to the agreement.

#### **4.10 GEOTECHNICAL ENGINEERING**

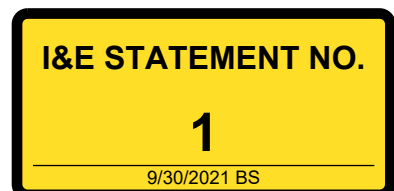
Geotechnical Engineering encompasses a wide range of issues critical to the design and construction of highways, bridges, and other types of transportation structures. Publication 293, *Geotechnical Engineering Manual*, provides a comprehensive guide to these issues.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of Transportation :  
of the Commonwealth of Pennsylvania for :  
approval to alter the crossings where State Route :  
3104 crosses, above grade, the tracks of CSX :  
Transportation Inc. (DOT 584 825 U), Norfolk : Docket No.: A-2020-3020667  
Southern Railway Company (DOT 507 455 K), :  
and the Pittsburgh and Ohio Central Railroad :  
Company (DOT Unknown) in the City of :  
Pittsburgh, Stowe Township and McKees Rocks :  
Borough, Allegheny County. :

**DIRECT TESTIMONY OF THE  
BUREAU OF INVESTIGATION AND ENFORCEMENT**

Testimony of: Daniel R. Helfrich, P.E.  
Rail Safety Division  
Bureau of Technical Utility Services



1 **Q: Please state your name.**

2 A: Daniel R. Helfrich.

3 **Q: Are you currently employed?**

4 A: Yes.

5 **Q: By whom are you employed and in what capacity?**

6 A: I am employed by the Pennsylvania Public Utility Commission, Bureau of  
7 Technical Utility Services (“TUS”) as a Civil Engineer Consultant in the Rail  
8 Safety Section.

9 **Q: How long have you been employed with the Commonwealth and what are  
10 your credentials?**

11 A: I have worked for the Pennsylvania Public Utility Commission (“Commission”)  
12 since October 2012. Previously, I was employed as a Civil Engineer for the  
13 Pennsylvania Department of Environmental Protection for 18 years. I have been a  
14 licensed professional engineer in the Commonwealth of Pennsylvania since 1998  
15 and have a Bachelor of Science Degree in Environmental Engineering Technology  
16 and an Associate Degree in Nuclear Engineering Technology from the  
17 Pennsylvania State University.

18 **Q: What are your current job responsibilities as a civil engineer consultant for  
19 the Bureau of Technical Utility Services?**

20 A: I act as an engineering representative and liaison between the Commission, the  
21 Pennsylvania Department of Transportation (“PennDOT”), railroad companies,  
22 local municipal governments, and non-carrier public utility companies on complex

1 matters relating to the location, design, construction, rehabilitation, and safety of  
2 rail-highway crossings.

3 **Q: Are you familiar with the crossings that are the subject of this case?**

4 A: Yes, I am.

5 **Q: When did you last visit the crossings?**

6 A: October 21, 2020.

7 **Q: Please describe the physical state of the crossings.**

8 A: The McKees Rocks Bridge crosses, above-grade, the tracks of Norfolk Southern  
9 Railway Company (“NS”), the Pittsburgh & Ohio Central Railroad Company  
10 (“POHC”), CSX Transportation, Inc. (“CSXT”), the Ohio River, and numerous  
11 surface streets located in the City of Pittsburgh, Stowe Township, and McKees  
12 Rocks Borough, all in Allegheny County. The McKees Rocks Bridge (SR 3104)  
13 provides traffic connection between Ohio River Boulevard (SR 0065) and Island  
14 Avenue (SR 0051) through the various local municipalities. The McKees Rocks  
15 Bridge is an approximately 5,800-foot-long structure that consists of steel  
16 spandrel-braced deck arches, steel-trussed through arches, deck trusses, and an  
17 elevated concrete causeway structure. The bridge is of varying width with the  
18 main river-crossing span that carries 3 travel lanes with sidewalks on both sides of  
19 the structure.

20 **Q: What issues are left to be resolved after the Commission’s issuance of its**  
21 **March 10, 2021, Secretarial Letter approving the application?**

22 A: The parties have not agreed to the allocation of work and costs for snow, ice, and

1 debris removal from the sidewalks and connected stairways on the structure; the  
2 allocation of future maintenance responsibilities for the bridge roadway lighting  
3 and navigation lighting systems; and the cost to energize the bridge roadway and  
4 navigation lighting systems. In general, the bridge lighting systems include the  
5 poles, arms, bases, conduit, junction boxes, wire, cables, luminaires, controls and  
6 related equipment for roadway deck lighting and navigation lighting.

7 **Q: Are there any other items that you are aware of that need to be addressed?**

8 A: There are no other items that I am aware of that need to be addressed, but I would  
9 like to clarify the future maintenance assigned to PennDOT in Paragraph 18 of our  
10 March 10, 2021, Secretarial Letter docketed at A-2020-3020667. The Rail Safety  
11 Section's position on PennDOT's future maintenance obligations includes all  
12 items listed in paragraph 18 of our March 10, 2021, Secretarial Letter as well as all  
13 other ancillary items and features of the McKees Rocks Bridge to include, but not  
14 be limited to, the structural integrity of the stairways and stairway railings, the  
15 bridge ramps leading to and from the surface streets, the roadway signage and  
16 supports, and all pavement markings. If PennDOT has a different position on these  
17 items, then these items would need to be adjudicated as well as the other  
18 previously noted items.

19 **Q: Does the use of federal funds for the rehabilitation project effect the party  
20 responsible for the snow, ice, and debris removal from pedestrian facilities?**

21 A: It may if the rehabilitation project is on a route designated as part of the National  
22 Highway System, then the Federal Highway Administration ("FHWA") has

1 authority to require snow removal from pedestrian facilities that are constructed  
2 with federal funds under 23 U.S. Code § 116.

3 **Q: Is the McKees Rocks Bridge part of the National Highway System?**

4 A: Yes, it is listed as an “Other Principle Arterial Route” on the PennDOT GIS map  
5 for Allegheny County.

6 **Q: Does the current rehabilitation project for the McKees Rock Bridge utilize  
7 federal funds?**

8 A: In the application filed by PennDOT on July 2, 2020, to alter the McKees Rock  
9 Bridge and associated highway-rail crossings, PennDOT stated that the project  
10 will be funded with 80% federal funds and 20% state funds.

11 **Q: Does 23 U.S. Code § 116 clearly state that pedestrian facilities must be  
12 maintained for snow removal and ice treatment?**

13 A: No, but the FHWA issued a memorandum dated August 27, 2008, to clarify and  
14 address maintaining pedestrian facilities, particularly during the winter season.

15 **Q: Generally, what does the August 27, 2008 FHWA memorandum state  
16 regarding snow removal on sidewalks constructed with federal funds?**

17 A: Two provisions provide the FHWA with authority to require snow removal from  
18 pedestrian facilities. The maintenance requirements of 23 U.S. Code § 116 apply  
19 to all transportation facilities that are constructed with federal funds. Section 116  
20 requires a State DOT to maintain projects constructed with Federal-aid funds or  
21 enter into a maintenance agreement with the appropriate local officials where such  
22 projects are located. The second provision involves a pedestrian accessibility issue

1 for which FHWA has oversight responsibility. In accordance with 28 CRF §  
2 35.133, a public agency must maintain its sidewalks in an accessible condition for  
3 all pedestrians with only isolated or temporary interruptions in accessibility. Part  
4 of the maintenance obligation includes reasonable snow removal efforts.

5 **Q: Who should initially bear responsibility for snow and ice removal from the**  
6 **sidewalks and the associated costs?**

7 A: Based on the significant federal funding for this project, initially PennDOT should  
8 bear that responsibility for snow, ice, and debris removal from the sidewalks until  
9 a final resolution is reached among the parties or a Commission order directs  
10 future maintenance for snow, ice, and debris removal from the sidewalks on the  
11 McKees Rocks Bridge.

12 **Q: Who should bear the future responsibility for snow, ice, and debris removal**  
13 **from the sidewalks and the associated costs?**

14 A: In this case, the bridge is located in the City of Pittsburgh, Stowe Township and  
15 McKees Rocks Borough, and their residents will benefit the most from the proper  
16 winter maintenance of the sidewalks. Therefore, it is incumbent upon those parties  
17 to bear their respective share of the future costs and future responsibility for snow,  
18 ice, and debris removal from the sidewalks to the extent of their respective  
19 municipal boundaries for the accommodation, convenience, and safety of the  
20 public.

1 **Q: Who should bear responsibility for maintenance and energization of the**  
2 **lighting on the roadways and sidewalks for the McKees Rocks Bridge?**

3 A: Per Commission Order entered on January 20, 1975, at Docket C-18734,  
4 PennDOT was assigned this responsibility at its sole cost and expense and should  
5 continue to bear this work and cost.

6 **Q: Who should bear responsibility for the maintenance and energization of the**  
7 **navigation lighting system attached to the bridge structure?**

8 A: Per Commission Order entered on January 20, 1975, at Docket C-18734,  
9 PennDOT was assigned this responsibility at its sole cost and expense and should  
10 continue to bear this work and cost. Additionally, to support this position, in  
11 accordance with 33 CFR § 118.1 regarding bridges over navigable waters, all  
12 persons owning or operating bridges over navigable waters of the United States  
13 shall maintain at their own cost and expense the lights and other signals required  
14 for the section of the Code.

15 **Q: Have all your answers and responses today been based upon your personal**  
16 **knowledge or engineering expertise?**

17 A: Yes.

18 **Q: Does this conclude your direct testimony?**

19 A: Yes. However, I reserve the right to supplement my testimony as additional issues  
20 and facts arise during the course of the proceeding.

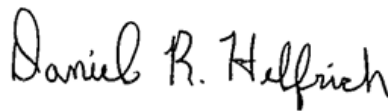
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of Transportation :  
of the Commonwealth of Pennsylvania for :  
approval to alter the crossings where State Route :  
3104 crosses, above grade, the tracks of CSX :  
Transportation Inc. (DOT 584 825 U), Norfolk : Docket No. A-2020-3020667  
Southern Railway Company (DOT 507 455 K), :  
and the Pittsburgh and Ohio Central Railroad :  
Company (DOT Unknown) in the City of :  
Pittsburgh, Stowe Township and McKees Rocks :  
Borough, Allegheny County. :

**VERIFICATION**

I, Daniel R. Helfrich, P.E., hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: July 21, 2021



---

Daniel R. Helfrich, P.E.  
Pennsylvania Public Utility Commission  
Bureau of Technical Utility Services  
Rail Safety Division  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120