

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held October 27, 2022

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
Stephen M. DeFrank, Vice Chairman
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

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 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

A-2020-3020667

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition for Reconsideration and/or Clarification (Petition) filed by the Pennsylvania Department of Transportation (PennDOT) on July 1, 2022, seeking reconsideration and clarification of the Opinion and Order entered on June 16, 2022 (*June 2022 Order*), relative to the above-captioned proceeding. On July 11, 2022, the McKees Rocks Borough (Borough) filed an Answer to the Petition,

and the Commission's Bureau of Investigation and Enforcement (I&E) filed a Letter Answer in response to the Petition. For the reasons set forth below, we shall grant the Petition.

I. History of the Proceeding

On July 2, 2020, PennDOT submitted an application (Application) to the Commission for approval to alter the public highway bridge crossing (McKees Rocks Bridge or bridge) where State Route 3104 crosses the tracks of CSX Transportation, Inc. (CSXT) (DOT No. 584 825 U), Norfolk Southern Railway Company (Norfolk Southern) (DOT No. 507 455 K), and the Pittsburgh & Ohio Central Railroad Company (POCR) (DOT unknown) in the City of Pittsburgh (City), Stowe Township (Township), and the Borough, Allegheny County. PennDOT is the owner of the bridge, and specifically sought approval to install new protective fencing at the crossing. R.D. at 2; Application at ¶ 5.

A field investigation and conference were held on October 21, 2020, and were attended by the Commission's Bureau of Technical Utility Services' Rail Safety Section (Rail Safety), PennDOT, CSXT, Norfolk Southern, POCR, the City, the Borough, Peoples Natural Gas Company, and Verizon Pennsylvania LLC. As outlined in the preliminary plans attached to the Application, PennDOT proposed to: (1) replace the expansion dam; (2) repair and replace the bridge deck's concrete barriers; (3) replace the protective fencing above the railroads; (4) replace the strip seals; (5) replace some sidewalk with concrete filled steel grate decking; (6) repair miscellaneous steel and concrete; (7) paint some parts of the steel structure relating to the pedestrian railing and sidewalk support; and (8) replace the approach slab. PennDOT agreed to complete the project at its sole cost and expense, utilizing 80% federal funds and 20% state funds. R.D. at 2.

Future maintenance of the bridge lighting and associated bridge lighting electrical costs, as well as future maintenance for removal of snow, ice, and debris from the sidewalks, remained undetermined at the time of the field conference. On February 4, 2021, Rail Safety requested that the matter be referred to the Commission's Office of Administrative Law Judge (OALJ) to resolve future maintenance and costs associated with the bridge lighting and removal of snow, ice, and debris from the sidewalks of the bridge. *Id.* at 2-3.

On March 10, 2021, a Secretarial Letter (*March 2021 Secretarial Letter*) was issued granting PennDOT permission to submit final detailed constructions plans of the proposed work and allowing PennDOT to begin construction once the plans were submitted and approved by the Commission.¹ The Secretarial Letter referred the outstanding future maintenance items and any other unresolved items to the OALJ for adjudication. *Id.* at 3.

On September 30, 2021, the telephonic evidentiary hearing convened as scheduled; PennDOT, I&E, Norfolk Southern, CSXT, and the Borough were represented by their respective counsel. The City and Township did not participate at the hearing. *Id.* at 4. Witnesses were presented and written testimonies and exhibits were admitted into evidence.² Main Briefs were submitted on December 10, 2021; no Reply Briefs were filed. The record was closed on December 23, 2021. *Id.* at 6.

¹ On May 11, 2022, PennDOT filed for Commission approval a copy of the final signed structure and construction plans for the project. Subsequently, on May 17, 2022, the Commission issued a Secretarial Letter approving the plans as submitted and providing the Parties with an opportunity to respond by filing a Petition for Reconsideration from Staff Action within twenty days pursuant to 52 Pa. Code § 5.44.

² *See* R.D. at 4-6 for a complete description of participating witnesses and written testimonies and exhibits admitted into evidence.

The Recommended Decision was issued on March 18, 2022, and recommended assignment to PennDOT at its sole cost and expense the following items: (1) the maintenance and energization for the navigational lighting and roadway lighting of the McKees Rocks Bridge; (2) the year-round maintenance of the sidewalks on the McKees Rocks Bridge, including removing snow, ice, and debris; (3) the application of anti-skid and de-icing material to the McKees Rocks Bridge; and (4) the maintenance of the signage and signals of the McKees Rocks Bridge. *Id.* at 1-2.

PennDOT filed Exceptions to the Recommended Decision on April 7, 2022. A Letter Reply to PennDOT's Exceptions was filed by I&E on April 15, 2022, and the Borough submitted a late-filed Letter Reply to PennDOT's Exceptions on April 27, 2022.

In the *June 2022 Order*, we: (1) adopted, as modified by the *June 2022 Order*, the ALJ's Recommended Decision; and (2) granted, in part, and denied, in part, the Exceptions filed by PennDOT. Specifically, we ordered that upon completion of the construction of the project at the McKees Rocks Bridge, the City, the Borough, and the Township would each be responsible for all materials and maintenance of removing snow, ice, and debris from the sidewalks on the bridge within each of their respective municipal boundaries. In addition, we adopted the ALJ's recommendations to assign to PennDOT the costs of the maintenance and energization for the navigational lighting and roadway lighting of the bridge, and the maintenance of the signage and signals of the bridge. *See, June 2022 Order.*

As previously noted, PennDOT filed the instant Petition on July 1, 2022. On July 11, 2022, the Borough filed an Answer to the Petition, and I&E filed a Letter Answer in response to the Petition.

II. Discussion

A. Legal Standards

Initially, we note that any issue we do not specifically address herein has been duly considered and will be denied without further discussion. It is well settled that we are not required to consider expressly or at length each contention or argument raised by the Parties. *Consolidated Rail Corporation v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *also see, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

The Public Utility Code (Code) establishes a party's right to seek relief following the issuance of our final decisions pursuant to Subsections 703(f) and (g), 66 Pa. C.S. §§ 703(f) and 703(g), relating to rehearings, as well as the rescission and amendment of orders. Such requests for relief must be consistent with Section 5.572 of our Regulations, 52 Pa. Code § 5.572, relating to petitions for relief following the issuance of a final decision. The standards for granting a Petition for Reconsideration were set forth in *Duick v. Pennsylvania Gas and Water Company*, 1982 Pa. PUC Lexis 4, *12-13:

A Petition for Reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part.

In this regard we agree with the court in the Pennsylvania Railroad Company case, wherein it was stated that:

Parties . . . cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them . . . what

we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked by the Commission.

Under the standards of *Duick*, a petition for reconsideration may properly raise any matter designed to convince this Commission that we should exercise our discretion to amend or rescind a prior Order, in whole or in part. Such petitions are likely to succeed only when they raise “new and novel arguments” not previously heard or considerations which appear to have been overlooked or not addressed by the Commission. *Id.* at *13.

B. *June 2022 Order*

Initially, in the *June 2022 Order*, we agreed with and adopted the ALJ’s recommended assignment of the cost and expense of the maintenance and energization of the navigational lighting and roadway lighting of the bridge to PennDOT. Our conclusion was based upon the Commission’s ruling in 1975 that assigned the maintenance and costs of the bridge’s roadway lighting to PennDOT, *June 22 Order* at 20-21, citing *Pa. PUC v. Dept. of Highways of the Commonwealth of Pa., Allegheny County, Penn Central Transportation Co., Pittsburgh, Chartiers & Youghiogeny Railway Co., The Pittsburgh and Lake Erie Railroad Co., Duquesne Light Co., City of Pittsburgh, Borough of McKees Rocks, and Township of Stowe*, Docket No. C-00018734 (Order entered January 20, 1975) (*1975 Order*) at ¶ 6, and the fact that PennDOT is currently paying for the maintenance and energization costs of the bridge’s roadway lighting. In addition, although the *1975 Order* did not specifically assign energization costs, including those for navigational lighting as well, to PennDOT, we agreed with the ALJ that it would be an absurd result to construe the *1975 Order* as not requiring PennDOT to be responsible for bearing the costs of energizing the bridge’s roadway lighting, and that the absence of a specific assignment of energization costs does not

warrant reassignment now to the municipalities. We further found that PennDOT owns the bridge, and that, pursuant to 66 Pa. C.S. § 2702(b) and in the interest of public safety, the general public, and not just the local residents of the municipalities, benefits from the bridge's roadway lighting. Therefore, we agreed with the ALJ's recommendation that the bridge's roadway lighting maintenance and energization costs shall be assigned to PennDOT. *Id.*

Next, we modified the ALJ's recommendation to assign to PennDOT, at its sole cost and expense, the year-round maintenance of the sidewalks on the bridge, including removing snow, ice, and debris. Rather, we found that the local municipalities should bear the costs and maintenance related to the removal of ice, snow, and debris from the bridge's sidewalks. This conclusion was based upon prior Commission decisions that bridge sidewalks are primarily for the benefit of local residents and should be maintained and kept clean of snow and ice by the local municipalities,³ and the

³ *Id.* at 23, citing, e.g., *Application of the Pa. Dept. of Transportation for approval of: (1) the abolition of the crossing (AAR No. 545097F) where State Highway Route 181 (Traffic Route 136) crosses above the grade of the tracks of Consolidated Rail Corporation, in the City of Monongahela, Washington County, and (2) the abolition of the crossing (AAR No. 584789B) where State Highway 181 (Traffic Route 136) crosses above the tracks of Pittsburgh and Lake Erie Railroad Company, in Forward Township, Allegheny County, and construction of crossings, in lieu thereof, where same highway, relocated as proposed, will cross above the grade of the same tracks of said corporation and said railroad in the respective municipalities, and the allocation of the costs and expenses incident thereto*, Docket No. A-00106313 (Order entered February 21, 1989); *City of New Castle v. Pa. Department of Highways, Shenango Valley Transportation, Buffalo, Rochester and Pittsburgh Railway Co., The Baltimore and Ohio Railroad Co., The Pittsburgh and Lake Erie Railroad Co., Erie Railroad Co., City of New Castle Water Co., Pennsylvania Power Co., The Bell Telephone Co. of Pa., and Manufacturers Light and Heat Co.*, Docket No. C-16920 (Order entered June 1, 1988); *Application of the Pa. Dept. of Transportation for approval of (1) the alteration of the crossing where State Highway Route 23 (Bridge Street) crosses above the grade of tracks of Consolidated Rail Corp., in Jersey Shore Borough, Lycoming County and the allocation of costs and expenses incident thereto, and (2) exemption from the minimum overhead clearance requirement of 52 Pa. Code, Chapter 33, Subchapter C*, Docket No. A-00105583 (Order entered November 21, 1988); *Application of the City of Phila. for the approval of: (1) the*

Commonwealth Court of Pennsylvania's upholding of the Commission's assignment of the responsibility for snow, ice, and debris removal from similar bridge sidewalks to local municipalities because local residents primarily benefit from those sidewalks. *See Millcreek Twp. v. Pa. PUC*, 753 A.2d 324 (Pa. Cmwlth. 1999). We concluded that this issue was different than the roadway lighting issue discussed above because the evidence of record demonstrated that the residents of the local municipalities will benefit the most from winter maintenance of the sidewalks as those local residents living in the vicinity of the bridge will traverse the sidewalks by foot on a regular basis. *Id.* at 23-24.

Moreover, we found that PennDOT has never performed snow, ice, and debris removal from the sidewalks of the bridge. We also concluded that the local municipalities are located near the bridge and are able to react quickly to winter weather at the bridge, whereas PennDOT would need to take resources away from its priority job of clearing roads, which would not make sense. As a result, we assigned responsibility for the maintenance of the bridge's sidewalks, including snow, ice, and debris removal to the City, the Township, and the Borough, within each of their respective municipal boundaries, at their sole cost and expense. *Id.* at 27.

Finally, we agreed with and adopted the ALJ's recommended assignment of the cost and expense to maintain the signage and signals of the bridge to PennDOT. We agreed with the ALJ's conclusion that there was no substantial evidence on the record regarding the bridge's signals and signage, and no justification was provided for changing the Commission's prior assignment of future maintenance of the bridge's ancillary features to PennDOT, pursuant to Paragraph No. 18 of the *March 2021*

reconstruction of the highway bridge carrying 40th Street (City Bridge Number 122, Railroad Bridge Number 2.75) over and above the tracks of Consolidated Rail Corp. and National Railroad Passenger Corp. in the City of Phila.; (2) exemption from the minimum overhead clearance as required by 52 Pa. Code Section 33.121; and (3) the allocation of costs and expenses incident thereto, Docket No. A-00113226 (Order entered May 14, 2007).

Secretarial Letter, at this docket. *Id.* at 25. In addition, we concluded that we would not consider new arguments and claims raised by PennDOT for the first time in its Exceptions, because the Commonwealth Court and this Commission have determined that permitting new claims or proposals at a late stage in a proceeding raises due process concerns because opposing parties would not have an adequate opportunity to respond to adverse positions, *Id.*, citing *Hess v. Pa. PUC*, 107 A.3d 246, 265-2669 (Pa. Cmwlth. 2014); and in prior cases, we have determined that arguments not raised by parties earlier in a proceeding are deemed to be waived. *Id.*, citing *Pa. PUC v. Uber Technologies, Inc.*, Docket No. C-2014-2422723 (Order entered September 1, 2016); *Ruth Matieu-Alce v. Philadelphia Gas Works*, Docket No. F-2015-2473661 (Order entered April 7, 2016); *Petition of PPL Electric Utilities Corporation for Approval of a Distribution System Improvement Charge*, Docket Nos. P-2012-2325034, *et al.* (Order entered October 1, 2015). Therefore, we determined that the prior assignment of the bridge's signals, signage, and signal energization and maintenance costs to PennDOT shall remain in effect.

C. Petition and Answers

In its Petition, PennDOT objects to the Commission's disposition assigning the cost and expense to maintain the signage and signals of the bridge to PennDOT. PennDOT argues that the maintenance and expenses of the traffic signage and signals on the bridge was not an issue during the hearing. PennDOT references the hearing transcript, the *March 2021 Secretarial Letter*, and the ALJ's Recommended Decision to support its position, and avers that it was not on notice that maintenance of traffic signals and signage that were outside of the railroad bridge crossing would be a matter at issue in this proceeding. As a result, PennDOT states that it did not present evidence regarding the current and historical maintenance responsibilities for the traffic signal. Petition at 4-7.

In addition, PennDOT argues that the ALJ's Recommended Decision should not have relied on I&E's Prehearing Memorandum to determine that signals and signage must be addressed in this proceeding because it was filed prior to the Prehearing Conference and the issuance of the subsequent Prehearing Order establishing the litigation schedule and hearing date. PennDOT avers that no other party raised signals and signage as an issue, and that it was not framed as an issue at the hearing, nor was it addressed in briefs. Therefore, PennDOT contends that the issue of signals and signage was not an issue to be properly decided. *Id.* at 7-8.

Furthermore, PennDOT contends that the *June 2022 Order's* finding that the Commission would not consider PennDOT's arguments regarding the signals and signage because they were raised for the first time in its Exceptions ignores the reality of the situation. While PennDOT concedes that it did not raise these arguments during briefing, PennDOT argues that traffic signs and signals was not an issue raised by the active litigants for which a decision was necessary at the hearing. Rather, PennDOT avers that the ALJ improperly decided to include the matter of traffic signs and signals in the Recommended Decision *sua sponte* by relying upon the Prehearing Memorandum of I&E, which was submitted before the active parties engaged in simplifying the issues at the prehearing conference and prior to hearing. Moreover, PennDOT states that it did raise this issue and argue against the ALJ's recommendation in its Exceptions to ensure that its position was clear and that it was not an issue to be decided at the hearing. PennDOT contends that this is a different situation than the cases cited in the *June 2022 Order* regarding raising new arguments because the other active Parties were afforded due process and given an opportunity to respond to the arguments in Reply Exceptions. As a result, PennDOT seeks reconsideration of the *June 2022 Order* because it was not afforded proper notice to defend the issue of traffic signal and signage maintenance and costs and the assignment of such future maintenance costs to PennDOT is not just and reasonable. *Id.* at 10.

Next, PennDOT contends that the traffic signals approaching the bridge are beyond the Commission's jurisdiction in this matter and that this issue was not addressed in the *June 2022 Order*. *Id.* at 11. PennDOT argues that, unlike the arguments above that were deemed newly raised and not considered, an issue of subject matter is not waivable and may be raised at any stage of a proceeding. *Id.* (citing *Blackwell v. State Ethics Comm'n*, 567 A.2d 630, 636 (Pa. 1989) (citing *Commonwealth v. Little*, 314 A.2d 270, 272 (Pa. 1974))). PennDOT avers that the specific traffic signals associated with the bridge are beyond Station 2 + 00 and Station 58 + 00 as shown on the Plans submitted as Exhibit B with its Application in this matter, which is beyond the jurisdiction taken by the Commission in the *March 2021 Secretarial Letter*. PennDOT argues that it was error to assign any responsibility for the traffic signals in the proceeding because the maintenance of those traffic signals is beyond the jurisdictional limits of the Commission. PennDOT requests reconsideration of this jurisdictional argument because it was not addressed in the *June 2022 Order*. *Id.* at 11.

In the alternative to reconsidering the jurisdictional argument discussed above, PennDOT requests clarification as to whether the traffic signals in the area approaching both sides of the bridge are intended to be encompassed by the Commission's jurisdiction in this matter and are within the scope of the *June 22 Order*. PennDOT states that it intends to fully comply with the *June 22 Order* and any reconsideration thereof and wants to ensure that it is not erroneously taking on the traffic signals located at the intersections of State Route 0051 and State Route 3104 and State Route 0065 and State Route 3104, which PennDOT argues it has never owned or maintained. *Id.* at 12.

In its Answer to the Petition, the Borough argues that PennDOT's request for reconsideration should be denied. The Borough asserts that Paragraph No. 18 in the *March 2021 Secretarial Letter* addressed maintenance of the bridge's ancillary features. Borough Answer at 4. In addition, the Borough contends that I&E explicitly raised road

signage and support as an issue to be addressed in its Prehearing Memorandum dated April 9, 2021. As such, the Borough argues that “to argue the issue of traffic signs and signals was not understood as issue in this matter is disingenuous.” *Id.* at 5. The Borough avers that PennDOT simply failed to present evidence as to this issue to satisfy its burden of proof, and that at no point prior to the issuance of the ALJ’s Recommended Decision was PennDOT precluded from providing testimony or evidence concerning the bridge’s signs and signals. The Borough contends that PennDOT’s failure to provide such evidence during the appropriate time may result in a waiver of such issues. The Borough argues that the Parties had knowledge of the issue of signs and signals, and PennDOT failed to meet its burden of proof. However, the Borough, in the alternative, requests that if the issue of the assignment of the maintenance and expenses of the traffic signs and signals is re-opened and re-acknowledged, then the matter should be referred back to a hearing officer to develop a complete record of the issue. *Id.*

In its Letter Response, I&E states that it agrees that the determination of maintenance of the traffic signals and signage was not an issue in this proceeding and that the traffic signals described by PennDOT in the Petition are beyond the jurisdiction established by the *March 2021 Secretarial Letter*. I&E takes no position on any other issues raised in the Petition. I&E Letter at 1.

D. Disposition

A petition for reconsideration is governed by *Duick*, which essentially requires the Commission to perform a two-step analysis. First, the Commission must determine whether the petitioner has offered any new arguments that were not addressed by the Commission in its previous order. The Commission will not reconsider its previous decision based on arguments that have already been made. Second, the Commission must evaluate any new argument or evidence and decide whether modification of its previous order is warranted. However, the Commission will not

necessarily modify a prior order just because a petitioner offers a new argument that was not addressed by the Commission in its previous order.

We find that the maintenance of traffic signals and signage was an issue in this proceeding. Paragraph No. 18 of the *March 2021 Secretarial Letter* addressed maintenance of the bridge's ancillary features. Specifically, Paragraph No. 18 required PennDOT to furnish all material and perform all work necessary to maintain, among other things, any ancillary features of the constructed improvement. *March 2021 Secretarial Letter* at 5.

Also, I&E, in its Prehearing Memorandum, identified "road signage and supports," among other items, as issues to be addressed in this proceeding. I&E Prehearing Memorandum ¶ 1(1)g.

Furthermore, the issue of traffic signals and signage was included in written testimony and addressed at the hearing. PennDOT's witness addressed the issue of traffic signals and signs, in his written testimony, by arguing that the municipalities should be responsible for the bridge's ancillary features, which would include traffic signals and signage, because the municipalities are responsible for the ownership and maintenance of the traffic signals. PennDOT's witness described signal signage to include all traffic signs relating to the traffic signals and lanes (i.e. lane designation signage, signals ahead signage, etc.). Also, at hearing, PennDOT's witness contended that traffic signs and signals for the bridge are required to be maintained by the municipalities under the federal Manual on Uniform Traffic Control Devices. Tr. at 75. Furthermore, PennDOT's witness testified that the municipality should be responsible for the traffic signals and that PennDOT has never been responsible for the signage associated with the traffic signals. However, he was not aware whether PennDOT ever paid for any energy costs for the bridge. Tr. at 79-82.

In addition, I&E's witness provided written testimony stating that roadway signage is an ancillary feature of the bridge and that future maintenance of the bridge's ancillary features was assigned to PennDOT pursuant to Paragraph No. 18 of the *March 2021 Secretarial Letter*. This testimony noted that if PennDOT has a different opinion on this item, as well as other items addressed in Paragraph No. 18 of the *March 2021 Secretarial Letter*, then such items would need to be adjudicated. I&E St. 1 at 3. Moreover, at hearing, I&E's witness testified that PennDOT did not provide any justification for transferring responsibility for the bridge's ancillary features. Tr. at 100-101.

Also, in its Main Brief, I&E discussed the traffic signal and signage by summarizing PennDOT's testimony regarding this issue. I&E M.B. at 11. PennDOT subsequently addressed the issue in its Exceptions, following the ALJ's conclusion that PennDOT failed to satisfy its burden of proof on this issue and his recommendation that the assignment of the future maintenance of the bridge's ancillary features to PennDOT, including traffic signals and signage, in the *March 2021 Secretarial Letter*, should remain in effect. PennDOT Exc. at 12-14.

However, under the circumstances in this case, we find that the standards for reconsideration have been satisfied. Upon review of the Petition and Answers in response thereto, while we disagree with PennDOT that the maintenance and expenses of the traffic signage and signals on the bridge was not an issue during the hearing, upon further review we do find that the issue of future responsibility of the maintenance and expenses of the traffic signals and signage on the bridge was not litigated and addressed in this proceeding as thoroughly, and with the same degree of detail, as the issues of bridge lighting and energization and bridge sidewalk maintenance. To that end, the ALJ described the evidence on the traffic signals and signage in this proceeding as "scant," and concluded that there was no substantial evidence on the issue of the bridge's signals

and signage to support PennDOT's position. R.D. at 27-28. Accordingly, we find that reconsideration is warranted here.

Therefore, in an abundance of caution and in order to alleviate any potential confusion going forward, we will refer the sole issue regarding the responsibility for the future maintenance and expenses of the traffic signals and signage on the bridge to the OALJ to conduct an evidentiary hearing, develop a complete and comprehensive record of the issue, and prepare and issue a Recommended Decision for the Commission's consideration and disposition. Under the ALJ's oversight, this further proceeding will allow the Parties to thoroughly and accurately clarify for the Commission the specific traffic signals included in the Application and associated with the bridge and to confirm whether they are within or beyond the jurisdiction taken by the Commission in this matter. Additionally, this further proceeding will assist in clarifying the specific traffic signals in the area approaching both sides of the bridge to determine precisely which signals are to be encompassed by the Commission's jurisdiction in this matter.

For the reasons set forth above, we shall grant PennDOT's Petition, consistent with the discussion in this Opinion and Order.

III. Conclusion

Based on our review of the record, the Parties' positions, and the applicable law, we shall grant PennDOT's Petition which seeks reconsideration and/or clarification of the *June 2022 Order*, consistent with this Opinion and Order. Moreover, we shall refer the sole issue regarding the responsibility for the future maintenance and expenses of the traffic signals and signage on the bridge to the OALJ to conduct an evidentiary hearing, develop a complete and comprehensive record of the issue, and prepare and issue a Recommended Decision for the Commission's consideration and disposition; **THEREFORE,**

IT IS ORDERED:

1. That the Petition for Reconsideration and/or Clarification filed by the Pennsylvania Department of Transportation on July 1, 2022, is granted, consistent with the discussion in this Opinion and Order.

2. That the sole issue regarding the responsibility for the future maintenance and expenses of the traffic signals and signage on the bridge is referred to the Office of Administrative Law Judge to conduct an evidentiary hearing, develop a complete and comprehensive record of the issue, and prepare and issue a Recommended Decision for the Commission's consideration and disposition.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta", written in a cursive style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: October 27, 2022

ORDER ENTERED: October 27, 2022