

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Public Meeting held October 21, 1975  
Harrisburg, PA. 17120

COMMISSIONERS PRESENT:

- Chairman Carter
- Commissioner Kelly
- Commissioner Bloom

Pennsylvania Public Utility Commission      Complaint Docket  
v.      No. 18838

Department of Highways of the Commonwealth  
of Pennsylvania, City of Coatesville, County  
of Chester and Penn Central Transportation  
Company

ORDER

BY THE COMMISSION:

By order issued June 4, 1974, this Commission, on its own motion, ordered, among other things, that the record in this proceeding, involving the structure carrying State Highway Route 15122 (Graham Avenue) over and above the electrified main tracks of Penn Central Transportation Company, in the city of Coatesville, Chester County, be reopened, and that the matter be scheduled for hearing.

At the outset of the hearing held January 16, 1975, Counsel for City of Coatesville, without objection of any other Counsel, agreed to make available for cross-examination the city's witnesses who had testified at the hearing held in this proceeding on January 17, 1974. Therefore, in the interest of clarity and the need to establish a complete record, we will recount herein the testimony of all witnesses adduced during the hearings held January 17, 1974, September 19, 1974 and January 16, 1975.

Gerald M. Reardon, Chief of Police for City of Coatesville, testified, at the hearing held January 17, 1974, that since the closing of Graham Avenue crossing, children continue to use the bridge as a pedestrian crossing. This results in a certain danger to the children who continue to use the crossing, rather than walk to the undergrade crossings at Third Avenue and Chester Avenue, because there has been no maintenance work or snow removal since the bridge was closed.

DUPLICATE RECORDED  
ORIGINAL CERTIFIED  
TO COMMON PLEAS COURT.

The witness testified further that the alternate crossing at Third Street is in a heavily congested area, with the railroad station, taxi stand and liquor store traffic, and that Graham Avenue could be used effectively to reduce traffic in the area. Additionally, highway traffic is getting heavier instead of lighter, and Graham Avenue crossing would assist in the flow of traffic.

Richard Hastings, Chief of City of Coatesville Fire Department, testified, at the hearing held January 17, 1974, that the firemen are volunteers who drive to any fire in their own automobiles. Before Graham Avenue bridge was closed to traffic, this was the most convenient route for firemen to get to the north side of the railroad tracks. Fire fighting equipment also used Graham Avenue crossing but now uses either Third Street or Chester Avenue undergrade crossings. During the last two years, approximately seven percent of all fire calls have been from the area north of the tracks.

During cross-examination, the witness testified that the area north of the railroad tracks is residential, including single dwellings, row houses and apartments.

Herbert C. Pike testified, at the hearing held January 17, 1974, that he was authorized to testify on behalf of Coatesville Chamber of Commerce, and that he had been a resident of the city for the past 50 years. The witness testified that during that time he has participated in studies for development of the city, and had appeared before the Planning Commission and other such groups in these matters. The witness testified further that Black Horse Road, the main source of traffic flow from points north of the city of Coatesville, is the state highway which connects with Third Avenue, Graham Avenue and Chester Avenue crossings. The area north of the railroad tracks has had a population growth of 12 percent from 1960 to 1970, but the present projected population growth is 144 percent for this area, from 1970 to 1980. The second largest employer in Chester County is the Veterans Hospital, located on Black Horse Road, north of the city. According to the witness, from a real estate standpoint there is little possibility of future development within the city limits, but the area north of the railroad tracks, involved in this proceeding, is prime development land in the next 10 to 15 years. In the opinion of the witness, it is important to provide decent facilities in and out of the city, if the city is to remain competitive.

Robert E. Keehn, a builder for Miller Hill Corporation, testified, at the hearing held January 17, 1974, that the company owns property in Coatesville on the north side of the railroad right-of-way. The witness testified that in 1970, the Miller Hill project consisted of 68 apartments and 30 or 40 single family dwellings. Since 1970, about 25 additional single family homes have been built, and at the present time there is continuing construction of homes in the area. The underpasses

at Third and Fourth Streets are the only accesses for children to walk to and from school, and are dangerous because they are enclosed, while Graham Avenue, if available, would provide an above-grade open area crossing. In addition, vehicular traffic, particularly trucks, generally avoid the underpasses and use the alternate route of Black Horse Road.

During cross-examination, the witness testified that about 28 new homes have been built since the Commission order issued January 10, 1972, the order which closed Graham Avenue bridge to highway traffic, and that the opening of Graham Avenue would be beneficial to his company. Further, the witness testified that the school children have to cross the railroad tracks in some manner, when walking to and from school, unless transported in privately owned automobiles.

Frances E. Regener, Mayor of City of Coatesville, testified, at the hearing held January 17, 1974, that Graham Avenue bridge in its present closed condition is a hazard to the safety of the people living in the city, from the standpoint of fire protection and children traveling to school. Third Avenue underpass is not satisfactory for pedestrians because of the lighting conditions and the icicles forming and falling during the winter season, nor for vehicular traffic because of the bad curve on the north side of the underpass. The witness testified that Graham Avenue bridge should be repaired as necessary and opened to traffic, at least to the extent that it could accommodate fire equipment. According to Mayor Regener, the city is willing to make any fair contribution for repairs to the bridge, if ordered to do so by the Commission.

The Mayor testified further, that a resolution had been passed by City Council on January 16, 1974, which requests that the Public Utility Commission give the highest priority to reconstruction or rehabilitation of the existing bridge superstructure, on its existing abutment, to make it adequate in strength to accommodate safely the class and volume of traffic normally using the highway at this location, in the interest of the safety, welfare and convenience of the citizens of Coatesville and the traveling public.

James Worthy, Councilman for City of Coatesville, testified, at the hearing held January 17, 1974, that the area north of the railroad tracks was continually under development, and with increasing volumes of highway traffic, the closing of Graham Avenue causes an overflow of traffic at the Fourth and Third Avenue undergrade crossings. In the opinion of the witness, Third Avenue is in very bad shape, and Fourth Avenue is entirely too narrow for vehicular traffic. There are 500 to 600 families residing north of the tracks, whose only access to go into the city is by way of Third Avenue, Fourth Avenue, or Chester Avenue. The closing of Graham Avenue crossing increased the volume of traffic at Third Avenue, and with the train station, taxi business and the state liquor store, there is congestion at all times, which causes a problem

for fire trucks to get through to get to the north side of the tracks. Because of the congestion, school buses presently go east from Black Horse Road to Chester Avenue underpass to get across the tracks, which is a longer route than by way of Third Avenue, or by Graham Avenue.

During cross-examination, Councilman Worthy testified that the city has some responsibility and would be willing to pay its fair share, like everyone else.

During the hearing held January 17, 1974, Stafford C. Walker, Senior Civil Engineer for Penn Central Transportation Company, stated that he reviewed the last bridge inspection report made in 1968, and determined that the iron trusses have structural cracks or deficiencies which rate them at seven tons, and that any up-grading of the bridge capacity would require repair of the trusses. The trusses are cast or wrought iron, not steel, and cannot easily be strengthened, but more likely would require replacement. Mr. Walker provided a preliminary estimate of cost for reconstruction of the bridge superstructure to provide a two lane cartway capable of 15 ton loading and one sidewalk, summarized as follows:

Remove existing superstructure	\$ 12,000
Modify existing bridge seats	11,000
Install concrete box beams and deck	67,000
Pedestrian Screens	3,000
Modify electrical system	60,000
Watchmen and flagmen	5,000
Engineering and contingencies	<u>23,700</u>
Total	\$ 181,700

Further hearing was held September 19, 1974, at which time Stafford C. Walker testified, on behalf of the railroad company, that the timber floor beams of the Graham Avenue structure are in such poor condition at the present time that no vehicular traffic should be permitted to use the bridge. According to the witness, in order to provide for 10 ton loading, it will be necessary to renew the floor beams, the hanger rods and the trusses, essentially the entire superstructure, at an estimated cost in excess of \$200,000. The witness testified that the railroad company would not agree to prepare any detailed plans or estimates, or perform any work, nor to assume any portion of the costs of construction or future maintenance. He also testified that even for five ton loading, the floor beams would have to be renewed, and the remaining portion of the superstructure would be questionable. For three tons, the floor beams would still have to be renewed, at a cost in excess of \$100,000. The witness testified that both cost estimates were based on removing the existing deck, replacing the floor beams, and replacing the deck.

Jack McSherry, Civil Engineer for Huth Engineers, a consultant for City of Coatesville, testified, at the hearing held September 19, 1974, that at the request of the city he had made an inspection of the existing bridge structure and prepared estimates of cost for its improvement. In preparation of his estimate, the witness made a visual inspection of the various structural members, to determine what the component members were, what functions they performed, and what physical condition they appeared to be in. Following this, the witness made a structural analysis based on his observations, and then determined what had to be done, and prepared a cost estimate accordingly.

In its present condition, the bridge should not be subjected to any vehicular traffic. The city's witness testified that the entire superstructure, including the trusses, should be removed entirely and replaced with a new superstructure supported by plate girders. The witness testified that with practical, economical procedures, the superstructure of the bridge could be replaced on the existing abutment, to provide 15 ton capacity and one sidewalk, at an estimated cost of \$100,000; that he had consulted with a reputable steel fabricator and erector for assistance in preparing his cost estimate, and that the estimated construction cost of \$100,000 did not include preparation of plans, or any modification of the highway approaches. The estimate of cost is summarized as follows:

Removal of existing superstructure	\$ 24,500
New structural steel	38,000
Corrugated metal deck with bituminous surface	14,000
Curbs and railings	4,500
Painting	5,000
Engineering and contingencies	<u>14,000</u>
Total	\$ 100,000

James F. Worthy, Councilman for City of Coatesville, testified, at the hearing held September 19, 1974, that the city was willing to place \$20,000 in its current budget to apply to the cost of the bridge improvement, including either construction or planning preparation, as the Commission might direct, but testified further that the bridge should be maintained by Department of Transportation, since Graham Avenue is a state highway route. The witness testified, during cross-examination, that the existing vertical profile of Black Horse Road and Graham Avenue were satisfactory to the city.

Joseph S. Munshower, Engineer for Chester County, testified, at the hearing held September 19, 1974, that the county has no responsibility of ownership or maintenance of the Graham Avenue bridge structure, and will not agree to perform any portion of the work of constructing an improvement; and does not agree at this time to bear any portion of the costs of construction, particularly since the county commissioners have no knowledge of the estimated costs.

Robert J. Nones, on behalf of the The Bell Telephone Company of Pennsylvania, stated that the company occupies the present structure with two wood conduits, and would like to occupy any new structure which might be built, and will be responsible for its own costs of installation.

Raymond M. Gephart, on behalf of Octorara Water Company, stated that the company has a 24 inch cast iron water main in the vicinity of the crossing, and requests reimbursement for any costs incurred by the company, if an improvement is contemplated.

Counsel for Philadelphia Electric Company stated that until such time as detailed plans and specifications were available, the company could not submit any testimony as to the cost of relocation or alteration of its facilities.

Counsel for Department of Transportation stated for the record, at the hearing held September 19, 1974, that the department did not intend to respond to any questions posed to it by the Commission, but permitted the department's witness to be cross-examined.

During his cross-examination, Milton H. Davis, Grade Crossing Engineer for Pennsylvania Department of Transportation, testified that the department has not performed any detailed inspection of the subject bridge structure, nor prepared any engineering studies or cost estimates, since the hearing held September 23, 1970. The witness testified that the department wishes to withdraw its recommendations made at that time, because of the design criteria then in use.

The witness testified further that the department will not agree to prepare any plans or cost estimates for reconstruction of the existing bridge, because it cannot spend State Funds on bridges to carry less than H20 S16-44 Highway loading, the legal loading limit. The department will agree to respect any reasonable and lawful order of the Commission with respect to work and cost allocation, provided funds are appropriated by the Legislature. The department will also agree to accept maintenance of the structure, if it is constructed in accordance with the department's specifications.

At the conclusion of the hearing held September 19, 1974, counsel for all parties agreed that the railroad company and the department have the right of further cross-examination of the city witnesses who presented testimony at prior hearings. Subsequently, further hearing was held January 16, 1975 for that purpose, and also for the purpose of receiving any additional testimony necessary to complete the record in this proceeding.

During cross-examination of his testimony presented January 17, 1974, Gerald M. Reardon, Chief of Police of City of Coatesville, testified that Graham Avenue crossing, if reopened, would provide a fourth access route across the railroad tracks, and would result in a change in the existing traffic pattern, particularly in light of the congestion in

vicinity of Third Avenue crossing, because Graham Avenue would provide a crossing with no clearance restrictions. In addition, the witness testified that since the closing of Graham Avenue crossing, there has been an increase in employment at the Veterans Hospital, and an increase in the number of homes in the Elmwood Garden area, resulting in an increase in vehicular traffic, and there are more children walking to and from school. In the opinion of the witness, Graham Avenue would be the safest crossing.

During cross-examination of his testimony presented on January 17, 1974, Richard P. Hastings, Fire Chief, reaffirmed his earlier testimony, and in addition, testified that there are no fire stations on the north side of the railroad tracks.

During cross-examination of his testimony presented on January 17, 1974, Herbert C. Pike confirmed his earlier testimony, and testified that the projected population growth for the area north of the railroad tracks is so great that in the opinion of the Chamber of Commerce, no highways to and from the area should be abandoned, in order not to reduce the means of ingress and egress from the city of Coatesville.

James Worthy, City Councilman, confirmed his testimony presented on January 17, 1974 in all respects, and testified that with the projected increase in vehicular traffic, the area in the vicinity of Third Avenue crossing would be more congested than it is at the present time. According to the councilman, the city would not be satisfied with only a pedestrian crossing, and that the reopening of Graham Avenue crossing would be a benefit to everybody in the surrounding area.

During cross-examination of his testimony presented on January 17, 1974, Robert E. Keehn, a builder, confirmed his previous testimony, and testified that the city is not looking for a new bridge, but for an alternate route for emergency equipment and pedestrian traffic, principally because Graham Avenue crossing is the only bridge in the city which crosses above the railroad tracks. According to the witness, the highway approaches to the bridge have been adequate for a long time, and are situated in a reduced speed area.

Mayor Frances E. Regener, during cross-examination, confirmed her earlier testimony in all respects, and testified, in order to refresh everyone's memory, that the city is interested in repairing the bridge and reopening the crossing. The city would be satisfied to have the bridge improved structurally, in its present location.

S. C. Walker, Senior Civil Engineer for Penn Central Transportation Company, testified, at the hearing held January 16, 1975, that the bridge in 1970 was capable of 5 ton loading, but is no longer strong enough for any traffic other than pedestrian traffic. According to the railroad company's witness, there have been no changes in the railroad operation since 1970, but that there might have been changes in highway, business and/or community development, beyond the knowledge of the railroad company.

Milton H. Davis, Civil Engineer for Pennsylvania Department of Transportation, testified, at the hearing held January 16, 1975, that the department's position is that there have been no changes to justify reopening of the Graham Avenue crossing. During cross-examination, the department's witness testified that it is anticipated that there will be an average daily volume of 3,600 motor vehicles by the year 1990, in the vicinity of the crossing.

City of Coatesville, in its brief filed February 24, 1975, contends that the Commission has the authority to amend or rescind any order, after notice and an opportunity to be heard, even without the requirement of new evidence, although in this case the city contends that there is new evidence due to changes in circumstances brought upon by an increase in development in the portion of the city located on the north side of the railroad tracks, which affects the safety and welfare of its citizens and the traveling public.

A brief filed March 6, 1975 by Pennsylvania Department of Transportation alleges that City of Coatesville has not proved any change of condition, from the date of the Commission order abolishing the crossing up to the date of the last hearing, to justify a re-opening of the subject proceeding, and that the Commission order of June 10, 1972 should remain unchanged.

In its brief filed March 7, 1975, Penn Central Transportation Company contends that City of Coatesville failed to exercise its right of petition for rehearing within the prescribed time, and a rescission or modification of the outstanding order which closed the crossing would set an unreasonable precedent, and violate the principles of due process. The railroad company argues that the Commission should deny any request to rescind or modify the order dated January 10, 1972, but without prejudice to the filing of an application by the city to establish a new crossing.

Oral Argument was held on April 30, 1975, at which time the positions of the city, the department and the railroad company, as set forth in their respective briefs, were reiterated, and amplified, to the extent deemed desirable and necessary by this Commission.

We have carefully reviewed the record in this proceeding, including the testimony presented at the hearings held January 17, 1974, September 19, 1974 and January 16, 1975, and the briefs filed by City of Coatesville, Department of Transportation and Penn Central Transportation Company. We have also reviewed the record which led to the order issued January 10, 1972, and the degree of compliance therewith by the various parties.

This Commission has in accordance with its statutory responsibility concerned itself in the past with the safety and convenience of the public, and of necessity must continue to do so. The record in this proceeding indicates that our order dated January 10, 1972, was predicated upon testimony by the city, that it would assume no financial responsibility; that the city would prefer to close the crossing rather than risk the possibility of further deterioration of the neighborhood by accepting the proposal of Department of Transportation; upon testimony by the department that it would assume no financial responsibility for improving the crossing and that a proposed improvement which was most feasible from an engineering standpoint, a connection with Sixth Avenue, did not satisfy the desires of the city; that is, for a connection with either Fifth Avenue or Fourth Avenue; and also upon the knowledge that school buses and trucks, weighing in excess of five tons, were using the structure.

This Commission is also cognizant that although the carrier was ordered on January 10, 1972 at this docket, to complete certain specified work namely, the installation of barricades on each side of the crossing and removal of the bridge superstructure, the railroad company has not removed the superstructure, and this inaction in addition to the factors discussed above, in our opinion, is just cause for the continued interest and desire of the city's officials to do everything possible to improve the character of the community and to serve its inhabitants. Testimony submitted at the hearing held on January 17, 1974 clearly demonstrated that the testimony submitted on January 10, 1972 was not representative of the Chief of Police, Fire Chief, City Council and the Chamber of Commerce.

In review of the testimony of City of Coatesville, submitted at the hearings held January 17, 1974 and September 19, 1974, we find that the area north of the railroad tracks has had a growth in population of 12 percent from 1960 to 1970, but with the lessening possibility of development within the city limits, there is a projected population growth of 144 percent in the area north of the tracks from 1970 to 1980; that since January 1972, there have been 28 new homes built north of the tracks, and as a result, there is an increase in vehicular traffic and there are more school children crossing the railroad tracks when walking to and from school; that Graham Avenue bridge in its present closed condition is a hazard to the safety and convenience of the people living north of the tracks, from the standpoint of fire protection and for the children traveling to and from school; and that the city is now willing to participate in the cost of repairs to the bridge, to make it available to its inhabitants as well as to all members of the traveling public, in a safe condition.

Further, we find that the city has consulted with a reputable steel fabricator, and in conjunction therewith has prepared a realistic estimate of cost to replace the bridge superstructure, with practical, economical procedures, to provide 15-ton capacity for highway traffic, and a pedestrian sidewalk.

In view of the total commitment of the entire community, by virtue of the testimony of its elected officials, its municipal service officers, together with its willingness to participate financially, it is the determination of this Commission that the Graham Avenue crossing should be opened for the service, accommodation, convenience and safety of the pedestrians and traveling public who regularly use this state highway route. However, in the interest of public safety, the crossing must be reconstructed so as to provide an adequate crossing in physical dimension and load carrying capacity.

Upon full consideration of the matters and things involved, we find and determine that the crossing of State Highway Route 15122 (Graham Avenue) above the grade of the tracks of Penn Central Transportation Company is necessary and proper for the service, accommodation and convenience of the traveling public including, but not limited to the residents of City of Coatesville and Chester County, and that the reconstruction of the bridge superstructure to acceptable modern standards is necessary or proper for the safety of the public and as such will serve as a direct benefit to local and through traffic desiring to utilize same. In making our determinations aforesaid, we are particularly cognizant of the department's projections that there will be approximately 3600 motor vehicles per day in the vicinity of the crossing by the year 1990. Accordingly, we will direct City of Coatesville to prepare detailed plans for reconstruction of the bridge, at its initial cost and expense; in addition, we will schedule further hearing in this proceeding, upon completion of the construction plans, for the purpose of taking testimony upon the adoption of said plan, the allocation of the costs of construction and the responsibilities of future maintenance; THEREFORE,

IT IS ORDERED:

1. That the order issued January 10, 1972 in this proceeding be and is hereby amended, to the extent hereinafter indicated.
2. That the crossing, where State Highway Route 15122 (Graham Avenue) crosses over and above the electrified tracks of Penn Central Transportation Company, in the city of Coatesville, Chester County, be reconstructed, to provide two lanes for highway vehicular traffic, capable of sustaining highway loading of fifteen tons in each lane, and at least one pedestrian sidewalk.
3. That City of Coatesville, on or before March 30, 1976 and at its initial cost and expense, prepare and submit to the parties of record and to this Commission, complete construction plans showing details for replacement of the superstructure of the existing bridge structure, as directed in numbered Paragraph 2 hereinabove, together with a detailed estimate of the cost of such work.

4. That City of Coatesville, Penn Central Transportation Company, Department of Transportation and the non-carrier utility companies cooperate with each other during the preparation of construction plans, so that such preparation will not be unduly delayed.

5. That upon completion of the detailed construction plan and estimate of costs hereinabove ordered prepared, this proceeding be scheduled for further hearing, at a time and place to be set by the Commission, for the purpose of taking testimony upon the adoption of said plans, the allocation of the costs and expenses incident to construction, the responsibilities of future maintenance, and any other matters relevant to this proceeding.

6. That in all respects not inconsistent herewith, our order issued January 10, 1972 in this proceeding remain in full force and effect.

BY THE COMMISSION,

C. J. McElwee  
Secretary

(SEAL)

ORDER ADOPTED: October 21, 1975

ORDER ENTERED: 10-28-75