

EXTRA COPY

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Public Meeting held May 31, 1978
Harrisburg, PA 17120

Commissioners Present:

- Louis J. Carter, Chairman
- Robert K. Bloom
- Helen B. O'Bannon
- Michael Johnson
- W. Wilson Goode

DUPLICATE REG
ORIGINAL FILED
TO COMMONWEALTH COURT.

Complaint Docket No. 18838 - Pennsylvania Public Utility Commission v. Department of Highways of the Commonwealth of Pennsylvania, City of Coatesville, County of Chester, Penn. Central Transportation Company and National Railroad Passenger Corporation.

ORDER

BY THE COMMISSION:

By order issued October 21, 1975, this Commission directed that the crossing, where State Highway Route 15122 (Graham Avenue) crosses over and above the grade of the electrified tracks of Penn Central Transportation Company (now owned and operated by National Railroad Passenger Corporation), in the City of Coatesville, Chester County, be reconstructed, to provide two lanes for highway vehicular traffic, capable of sustaining highway loading of fifteen (15) tons in each lane, and a pedestrian sidewalk. Further, the Commission directed City of Coatesville, at its initial cost and expense, to prepare complete construction plans showing details for replacement of the superstructure of the existing bridge structure.

In compliance with the above-referenced order, City of Coatesville, by letter dated August 20, 1976, submitted to the parties of record and to the Commission, construction plans and specifications for replacement of the superstructure. A field conference was conducted September 27, 1976, to review the plan prepared by the city, and subsequently, further hearing was held April 28, 1977.

Jack McSherry, Engineer for City of Coatesville, testified at the hearing held April 28, 1977 that the construction plan, admitted as City of Coatesville Exhibit No. 2, consisting of three sheets prepared in accordance with a Commission Order, includes removal of the existing bridge superstructure. The existing abutments will be capped with concrete and used to support the new superstructure, which will be a plate girder type of bridge with a span of 75 feet. The roadway width will be

twenty feet, curb to curb, to provide two traffic lanes, and a sidewalk approximately three feet in width will be provided on the east side of the roadway. The deck of the bridge will be concrete and the structure will have a load capacity of fifteen tons.

The estimated cost of the bridge reconstruction is \$100,000, according the city's witness, and is shown in more detail as follows:

Estimated Cost of Bridge Reconstruction

<u>Item</u>	<u>Monies Involved</u>
Remove existing bridge superstructure	\$ 3,000
Concrete caps	5,000
Steel	75,000
Concrete deck	2,000
Engineering and contingencies	<u>15,000</u>
Total	\$100,000

In addition to the estimated cost of construction, City of Coatesville has incurred expenses of \$8,000 in preparation of the plans, which expenses are shown on City of Coatesville Exhibit No. 3, consisting of 3 sheets.

During cross-examination, the city's witness testified that provisions were made on the plan for the occupation of one six-inch gas main and 12 four-inch telephone conduits in the sidewalk area of the new superstructure. Further, the witness testified that the approaches to the bridge should be modified to a minor degree, to improve the vertical profile of the Graham Avenue approach, and to improve the drainage system on the north side of the crossing. The work as described is estimated to cost \$18,000, and is shown on the plan extending between Engineering Stations 0+00 and 4+50, which are the limits over which the Commission will assume jurisdiction.

Donald Thompson, Administrator of City of Coatesville, testified that it will be unnecessary to appropriate or condemn any property for the proposed construction. The city's witness testified further that the city is unable to bear any portion of the cost of construction, other than the cost that it has already incurred in the preparation of plans. According to the witness, the city has never had any responsibility for the Graham Avenue Bridge or its approaches, since both were constructed and maintained either by the railroad company or by Pennsylvania Department of Transportation, and the highway is a State Highway on both approaches. In the opinion of the city, future maintenance should be the responsibility of the department and the railroad company, and further, the public utilities involved should bear

their own costs of relocation or alteration of their respective facilities.

During cross-examination, the witness testified that the plans were prepared in accordance with the requirements of the Public Utility Commission, and in compliance with an order issued by the Commission. The city's witness acknowledged that the city had previously testified that it was willing to pay a fair share of the cost of a new bridge, but that at the present time, after reviewing the current budget situation, the city cannot agree to participate in the cost of the project beyond the cost of preparation plans, \$8,000, which the city has borne entirely.

Milton H. Davis, Grade Crossing Engineer for Pennsylvania Department of Transportation, testified that the department does not approve the plan prepared and submitted by City of Coatesville, because the plan is not consistent with the department's current design criteria. According to the witness, the department does not approve constructing a bridge that will not sustain legal highway loading, and is less than 28 feet in width between curbs. Therefore, the department does not agree to perform any work or bear any portion of the construction costs, or to assume any future maintenance responsibility. In the opinion of the department, all costs and responsibilities should be assigned to parties other than the department, and in addition, the present highway route on Graham Avenue should be abandoned as a State Highway to the city, with the city responsible for future maintenance. During cross-examination, the department's witness acknowledged that the highway had been in existence for 25 or 30 years, with no effort made to improve its vertical or horizontal alignment. The road was satisfactory during the time of its existence as a state highway. Further, the witness acknowledged that the plan prepared by the city, for a bridge with capacity of 15 tons, was in accordance with an order issued by Pennsylvania Public Utility Commission.

Joseph Munshower, Consulting Engineer for Chester County, testified that the county will not agree to assume any portion of the work or the expense of reconstructing the crossing, since it has never had any obligation for reconstruction or maintenance of the former crossing.

Louis Cheifetz, Structural Engineer for National Railroad Passenger Corporation (Amtrak), testified that there are no objections to the vertical clearance proposed on the plan, and that the company is presently preparing plans for alteration of its electrification system to accommodate the construction. Amtrak has no objection to the plans prepared by the city. However, it will be necessary for Amtrak forces to remove the catenary wire attachments from the existing bridge, and re-attach the wires to the new bridge. The cost of the work is estimated

at \$42,700, shown in detail on Amtrak Exhibit No. 1, consisting of a single sheet, and the company requests reimbursement by the highway users who benefit from the new structure. The railroad company will maintain its own facilities in the vicinity of the crossing.

In addition, it will be necessary to provide watchmen, flagmen or inspectors during the course of construction. Since the expense of these services depends entirely upon the contractor's operations, the costs should be reimbursed from the highway interests who benefit from the new structure.

During cross-examination, the railroad company's witness testified that the bridge was originally constructed by the Pennsylvania Railroad, and was maintained by the railroad company, or its successors, since that time. Further, the witness testified that the overhead wires are attached to the bridge at the present time, just as they were when Amtrak took over the railroad operation. In addition, the witness acknowledged that Amtrak was aware of an outstanding Commission order Edward J. Silver, Senior Engineer for Philadelphia Electric Company, testified that the company has a four-inch gas main on the easterly side of the bridge, and it will be necessary to remove the pipe prior to the start of construction. Concurrent with the new construction, a six-inch steel main will be installed on the bridge, encased in an eight-inch sleeve. The estimated cost of the work is \$7,000, of which \$350 is considered a betterment, and the electric company will perform the work. The witness testified further that the electric company has two aerial circuits on wood poles along the easterly side of Graham Avenue. Although this facility is not directly involved in the proposed construction, the use of certain construction equipment may require the presence of a safety inspector, or de-energizing the wire lines.

The electric company requests reimbursement for the total cost of its work, less any betterments, inasmuch as its customers will not benefit from any of the proposed relocations.

In addition to the facilities described above, the witness testified that the electric company would renew its existing gas main in Graham Avenue for a distance of 280 feet, prior to rebuilding of the avenue, at an estimated cost of \$6,000, of which \$800 is considered a betterment, due to the increased diameter of the new pipe, from four to six inches. Finally, it will be necessary to relocate one electric pole, at an estimated cost of \$1,500.

During cross-examination, the electric company's witness testified that the gas main is not an essential link in the distribution system within the city of Coatesville, but all links are tied together, for greater reliability. The witness acknowledged that the line would have been abandoned if the bridge

structure had been removed, as proposed at one time. In regard to the electric pole which must be relocated, the witness testified that it is presently in public right-of-way. The witness testified further that it was good engineering practice to replace old cast iron gas mains where a road was being rebuilt, to eliminate the possibility of future breaks due to the operation of the heavy construction equipment. The cost of this replacement should be reimbursed to the company, but the witness acknowledged that the company would be able to re-route the service, in the event the project to reconstruct the bridge was abandoned.

Stafford C. Walker, Senior Civil Engineer for Consolidated Rail Corporation, testified that he had testified previously on behalf of Penn Central Transportation Company, but now testified for only Consolidated Rail Corporation. The witness testified that the rail carrier had no objection, in general, to the plan, but suggested minor modifications to insure that trespassors were prevented from crawling on the bridge outside of the handrail. Conrail does not agree to perform any portion of the work or to be responsible for any portion of the cost of construction, or to be responsible for any future maintenance of the structure.

R. M. Gephart, Engineer for Octoraro Water Company, stated on the record that the company has a 24 inch cast iron transmission main located beneath the ground adjacent to one of the bridge piers, and that inspection by the water company will be required if any excavation close to the piers is anticipated. The cost of any alteration, damage or relocation should be reimbursed to the water company.

Upon full consideration of the record in this proceeding, including the testimony and exhibits presented at the hearings held January 16, 1975 and April 28, 1977, we make the following findings as herein set forth:

1. By order issued October 21, 1975 we directed that this bridge structure carrying State Highway Route 15122 (Graham Avenue) over and above the grade of the electrified tracks of Penn Central Transportation Company, in the city of Coatesville, Chester County, be reconstructed to provide for two lanes of highway vehicular traffic, capable of sustaining highway loading of 15 tons in each lane.

2. By order issued October 21, 1975, the Commission directed City of Coatesville, at its initial cost and expense, to prepare complete construction plans showing details for replacement of the superstructure of the existing bridge.

3. By order issued October 21, 1975, the Commission directed that further hearing be scheduled, upon completion of construction plans, to take testimony upon the adoption of said plans and the allocation of costs incident to construction, and the responsibilities of future maintenance.

4. By letter dated August 20, 1976, City of Coatesville submitted construction plans and specifications for replacement of the superstructure to the parties of record and to the Commission.

5. Construction plans prepared by City of Coatesville were reviewed during a field conference conducted September 27, 1976.

6. The cost of reconstructing the bridge superstructure and altering the highway approaches thereto, as estimated by City of Coatesville, is \$118,000.

7. City of Coatesville has expended a sum of \$8,000 in preparation of the plans ordered by the Commission.

8. The construction plan provides for the installation of one six-inch gas main for Philadelphia Electric Company and 12 four-inch conduits for The Bell Telephone Company of Pennsylvania, both to be located in the sidewalk area of the new bridge superstructure.

9. City of Coatesville has borne the expense of preparation of plans, at a cost of \$8,000, but its position is that it is unable to bear any further portion of the costs of construction.

10. It is City of Coatesville's position that the involved public utilities involved should bear the costs of altering or relocating their own facilities.

11. It is the position of City of Coatesville that future maintenance of the bridge structure should be the responsibility of Pennsylvania Department of Transportation and the railroad company.

12. Pennsylvania Department of Transportation does not approve the plan prepared by the city of Coatesville because the plan is not consistent with the department's current design criteria.

13. The plan prepared by City of Coatesville complies with provisions of a Commission order dated October 21, 1975. (N.T. 117-18)

14. The position of Department of Transportation is that all construction costs and maintenance responsibilities should be assigned to parties other than the department.

15. The approaches to the crossing intersect with State Highways on both sides of the bridge. (N.T. 136-37)

16. Chester County does not agree to assume any portion of the work or the cost of reconstructing or maintaining the crossing, on the basis that it had no obligations for reconstruction or maintenance of the former crossing.

17. National Railroad Passenger Corporation, which has facilities and trains which traverse the crossing, has catenary wire attachments which will have to be removed from the existing bridge, and re-attached to the new superstructure, at an estimated cost of \$42,700 (N.T. 150-52, 55)

18. It is the position of the railroad company that it should receive reimbursement from the highway users for the cost of any watchman, flagman or inspector services, and for the alteration of its catenary facilities.

19. The bridge was originally constructed by Pennsylvania Railroad, and has been maintained by the railroad company, or its successor companies, since that time. (N.T. 156-57)

20. Consolidated Rail Corporation does not agree to perform any portion of the work, or to be responsible for any portion of the costs of construction, or for any future maintenance of the structure.

21. Philadelphia Electric Company will remove a four-inch gas main prior to reconstruction, and install a six-inch main, in replacement, at an estimated cost of \$7,000, less a betterment of \$350, and requests reimbursement for this cost.

22. Philadelphia Electric Company will renew the existing gas main in Graham Avenue, at an estimated cost of \$6,000, less a betterment of \$800, due to the increased diameter of the pipe, and in addition, will relocate one electric pole, at an estimated cost of \$1,500, and requests reimbursement for these costs.

23. Philadelphia Electric Company's gas main, although not an essential link in the gas distribution system, is tied to the system, for greater reliability; however, the line would have been abandoned if the bridge structure had been removed.

24. The electric pole and the gas main are presently in public right-of-way. It is Philadelphia Electric Company's practice to replace the old castiron gas main where a road is being rebuilt, to eliminate the possibility of future breaks in the line.

25. Dctoraro Water Company has a 24 four inch castiron water main underground adjacent to one of the bridge piers, and requests that any expense of alteration, damage or relocation should be reimbursed to the water company.

26. The parties, Pennsylvania Department of Transportation, County of Chester, City of Coatesville, Consolidated Rail Corporation and National Railroad Passenger Corporation, are properly before the Commission pursuant to its comprehensive grade crossing powers conferred by Sections 409 and 411 of the Public Utility Law (66 P.S. §§1179, 1181).

27. The aforesaid parties are individually "concerned" and "interested" in the current proceeding within the context of the aforesaid specific provisions of the Public Utility Law, and as denoted by the record of this proceeding.

Upon full consideration of the aforesaid specific findings of fact, we hereby determine and conclude that the bridge structure carrying State Highway Route 15122 over and above the grade of the tracks of the railroad company forms an integral part of the State Highway System, and its reconstruction will provide a substantially safer and more adequately facility for vehicular traffic regularly traversing this state highway route. We deem it fair and equitable for Pennsylvania Department of Transportation to bear a major share of the costs and expenses of reconstruction. However, because City of Coatesville and the County of Chester have benefited in the past from the existence of the bridge, and will additionally derive future benefit from reconstruction of the bridge structure, the remainder of the reconstruction costs shall be allocated to the city and the county.

It is the opinion of this Commission that the expense to be incurred by the National Railroad Passenger Corporation in alteration of its catenary wire lines, to accommodate reconstruction of the bridge, is a mutual responsibility of the carrier and the highway users. The presence of both entities at this location necessitates the expenditure, and the absence of one or the other of the parties would obviate the necessity of the expenditure. We believe that the highway users and the railroad company should share this expense, and this order will so provide.

The expenses to be incurred by Philadelphia Electric Company for replacement of an existing gas main with a larger main, and relocation of an electric pole, are estimated at \$14,500, less betterment of \$1,150. These facilities have been located within the legal limits of the highway for many years, without rental. Additionally, the record indicates that the existing gas main facility, albeit an element in providing greater reliability, is not an essential link in the gas distribution system and would have been abandoned if the bridge structure had been removed. We therefore conclude that the continued existence of the gas main is a matter of management discretion, and not a necessary requisite in the gas distribution system. For these reasons, we believe that the electric company should alter its facilities, to the extent it deems necessary or desirable, at its own cost and expense.

In regard to future maintenance of the reconstructed bridge structure, inasmuch as the bridge carries State Highway Route 15122 and is part of the state highway system, we conclude that the new bridge superstructure should be maintained by Department of Transportation; THEREFORE,

IT IS ORDERED:

1. That the existing crossing of State Highway Route 15122 (Graham Avenue) over and above the grade of the electrified tracks of National Railroad Passenger Corporation, in the city of Coatesville, Chester County, be reconstructed, generally in accordance with the plan, consisting of three sheets, prepared by City of Coatesville in compliance with the Commission order issued October 21, 1975 and admitted at the hearing held April 28, 1977 as City of Coatesville Exhibit No. 2, which plan is attached hereto, made part hereof and is hereby approved.

2. That City of Coatesville, at its initial cost and expense, furnish all material and do all work necessary to remove the superstructure of the existing Graham Avenue bridge and construct a new superstructure, alter the highway approaches thereto, and install any appurtenant drainage facilities, in accordance with the approved plan.

3. That City of Coatesville, at its initial cost and expense, furnish all material and do all work necessary to provide the necessary attachments and/or supports on the new bridge structure, required for the accommodation of the facilities of The Bell Telephone Company of Pennsylvania and Philadelphia Electric Company, in accordance with the approved plan.

4. That National Railroad Passenger Corporation furnish any necessary watchmen, flagmen, construction inspectors or electrical inspectors to protect its operations during the time the existing bridge is being removed and a new bridge superstructure is being constructed above and adjacent to its tracks.

5. That National Railroad Passenger Corporation furnish all material and do all work required to make any temporary or permanent alterations or relocations to its tracks, signals, wirelines, catenary lines or other facilities, required to permit the construction of the improvement.

6. That any relocation of, changes in or removal of any adjacent structures, equipment or other facilities of any public utility, other than National Railroad Passenger Corporation, 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.

7. That any relocation of, changes in or removal of any adjacent structures, equipment or other facilities of any public utility, other than National Railroad Passenger Corporation, located beyond 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 in such manner as will not interfere with construction of the improvement.

8. That City of Coatesville, at its initial cost and expense, furnish all material and do all work necessary to establish and maintain any detours that may be required to accommodate properly highway traffic during the time the railroad-highway crossing project is being constructed.

9. That City of Coatesville, at its initial cost and expense, furnish all material and do all work necessary to complete the remainder of the crossing improvement, in accordance with the approved plan.

10. That the railroad-highway crossing project be completed in a manner satisfactory to this Commission on or before June 30, 1980, and that on or before said date, City of Coatesville and National Railroad Passenger Corporation each report to the Commission the date of actual completion of its respective portion; and at the earliest practicable time subsequent to said date of completion, submit to this Commission a detailed statement of the actual cost incurred by it in furnishing material and performing work in compliance with this order.

11. That City of Coatesville cooperate with National Railroad Passenger Corporation, so that during the construction of the project, the operation of the facilities of the railroad carrier will not be endangered or unnecessarily inconvenienced.

12. That during the time the project is being constructed above and adjacent to its tracks, National Railroad Passenger Corporation cooperate with City of Coatesville and conduct its operations in the vicinity of the crossing in a safe manner and under control.

13. That City of Coatesville, at its initial cost and expense, pay all compensation, if any, due to the owners for property taken, injured or destroyed and by reason of the construction of the railroad-highway crossing project in accordance with this order.

14. That City of Coatesville, at its initial cost and expense, pay National Railroad Passenger Corporation a sum or sums of money equal to the actual cost of watchman, flagman, construction inspector and electrical inspector services rendered by the company to protect its operations and facilities contingent

solely upon the work and operations of City of Coatesville and/or its contractors, during the time the existing bridge superstructure is being removed, and the new superstructure is being constructed above and adjacent to its tracks.

15. That City of Coatesville, at its initial cost and expenses, pay National Railroad Passenger Corporation, 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 material furnished, work performed and services rendered by the company, in compliance with numbered Paragraph 5 of this order; provided however, such reimbursement to the company by the city may include items of work and expenses incurred by the company such as are eligible for payment under the Rules, Regulations and Administrative Orders of the Federal Highway Administration governing grade crossing projects undertaken with Federal Funds; the salvage value of material recovered or temporarily used to be deducted from the actual cost of that portion of the work done and material furnished by the railroad company at the expense of the city.

16. That The Bell Telephone Company of Pennsylvania pay City of Coatesville, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to the actual cost of material furnished and work performed by the city to provide for the installation of the telephone company's facility on the new bridge superstructure, in compliance with numbered Paragraph 3 of this order.

17. That Philadelphia Electric Company pay City of Coatesville, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to the actual cost of material furnished and work performed by the city to provide for the installation of the electric company's facility on the new bridge superstructure, in compliance with numbered Paragraph 3 of this order.

18. That Department of Transportation of the Commonwealth of Pennsylvania pay City of Coatesville, 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 material furnished and work performed by the city, in accordance with numbered Paragraphs 1, 2, 8, 9, 13, 14 and 15 of this order.

19. That County of Chester pay City of Coatesville, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to twenty-five (25) percent of the actual cost of the material furnished and work performed by the city, in accordance with numbered Paragraphs 1, 2, 8, 9, 13, 14 and 15 of this order.

20. That upon completion of the construction of the railroad-highway crossing project and its opening to public use, each non-carrier utility, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its respective facilities within the limits of the project.

21. That upon completion of the construction of the railroad-highway crossing project and its opening to public use, National Railroad Passenger Corporation, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its tracks and other facilities located on its right-of-way, in the vicinity of the crossing reconstructed in accordance with this order, including the substructure of the bridge carrying State Highway Route 15122 above the grade of its tracks.

22. That upon completion of the rail-highway crossing project and its opening to public use, Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the remainder of the crossing improvement, including the superstructure and roadway of the bridge carrying State Highway Route 15122 above the grade of the railroad tracks, the highway approaches to the crossing, and any drainage facilities installed or altered in accordance with this order.

BY THE COMMISSION,

C. J. McElwee

Secretary

(SEAL)

ORDER ADOPTED: May 31, 1978

ORDER ENTERED: JUN 21 1978