

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheets

1. <u>REPORT DATE:</u>	January 14, 1988	2. <u>BUREAU AGENDA NO.</u>	JAN-88-SC-RS-60 *
3. <u>BUREAU:</u>	Safety & Compliance		
4. <u>SECTION</u>	Rail Safety	5. <u>PUBLIC MEETING DATE:</u>	January 29, 1988
6. <u>APPROVED BY:</u>			
Director:	Nicely 3-3846 <i>KW</i>		
Supervisor:			
7. <u>MONITOR:</u>			
8. <u>PERSON IN CHARGE:</u>	<i>DD</i> Fleisher 7-5936		
9. <u>DOCKET NO.:</u>	G-00018838		

10. (a) CAPTION (abbreviate if more than 4 lines)
 (b) Short summary of history & facts, documents & briefs
 (c) Recommendation

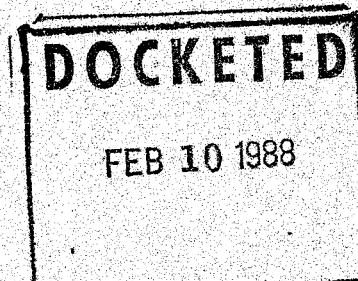
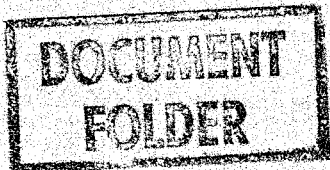
(a) Pennsylvania Public Utility Commission
v.

Pennsylvania Department of Transportation,
City of Coatesville, Chester County,
Amtrak, et al.

(b) Investigation instituted November 26, 1969. Numerous hearings have been held and orders adopted. Latest hearing held January 15, 1987. Latest order adopted May 27, 1987. Amtrak filed a petition November 16, 1987, seeking modification of the latest order.

(c) It is recommended that the Commission adopt an order granting the instant petition in part and adding an additional ordering paragraph covering future contingencies.

DRF:11



11. MOTION BY: Commissioner Chm. Shane Commissioner Taliaferro - Yes
 Commissioner Smith - Yes
 SECONDED: Commissioner Fischl Commissioner

CONTENT OF MOTION: Staff recommendation adopted.



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

February 8, 1988

IN REPLY PLEASE
REFER TO OUR FILE
C-00018838

Harold K. Cohen, Associate General
Counsel
AMTRAK
2000 Market Street
Philadelphia, PA 19103

**DOCUMENT
FOLDER**

DOCKETED
FEB 11 1988

Pennsylvania Public Utility Commission
v.
Department of Highways of Commonwealth of Pennsylvania
City of Coatesville, Chester County, National Railroad
Passenger Corporation and Consolidated Rail Corporation

To Whom It May Concern:

This is to advise you that an Order has been adopted by the Commission in Public Meeting on January 29, 1988, in the above entitled proceeding.

An Executed Order has been enclosed for your records.

Very truly yours,

Jerry Rich, Secretary

jr
Encls.
Cert. Mail

Bureau of S & C

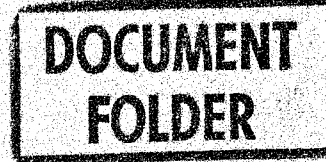
Similar letters to: see attached list

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held January 29, 1988

Commissioners Present:

Bill Shane, Chairman
Linda C. Taliaferro
Frank Fischl
William H. Smith

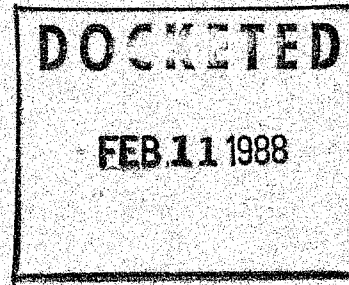


Pennsylvania Public Utility Commission

C-00018838

v.

Department of Highways of Commonwealth
of Pennsylvania, City of Coatesville,
Chester County, National Railroad Passenger
Corporation and Consolidated Rail
Corporation



O R D E R

BY THE COMMISSION:

This matter is before us by reason of a petition filed November 16, 1987, by National Railroad Passenger Corporation (hereinafter Amtrak). The petitioner requests that the Order adopted May 29, 1987 (entered June 5, 1987) be modified to permit the abutments of the prior crossing structure to remain in place and the responsibility for maintenance of same be assigned to the petitioner.

By the aforementioned Order a stay, contained in the Order adopted June 24, 1983, of the requirement to remove the substructure of the prior existing crossing structure was rescinded and Amtrak was directed to remove the abutments on or before November 30, 1987.

A site conference, arranged and conducted by a Commission staff engineer, was held on September 10, 1987, at the request of Amtrak. Pennsylvania Department of Transportation, City of Coatesville and Amtrak were present.

Amtrak requested consideration of a proposal to leave the abutments in place as they presently exist stating that they pose no immediate danger to the operation of the railroad or to the traveling public. The abutment on the north side of the railroad tracks retains embankment above and behind it, prevents erosion of the embankment onto railroad property and further prevents erosion of the land of the

adjacent property owners. The abutment on the south side of the railroad tracks retains embankment material which supports a pole carrying overhead wires that cross the railroad right-of-way at the site of the former crossing structure.

By letter received September 21, 1987, City of Coatesville informed the Commission that it approved the request by Amtrak to leave the northern abutment in place. The letter did not directly comment about the southern abutment but did state that the City recommends that the Commission modify the order to allow the substructure of the former Graham Avenue crossing to remain in place until such time that it does become a hazard.

Proof of service of the petition on all parties in interest has been received. More than twenty (20) days have elapsed since the petition was filed. The Department of Transportation filed an answer to the petition on November 24, 1987. None of the other parties has advised that they have any objection to the granting of the petition as presented or desires to be heard in this matter.

In its answer, the Department offered no objection to Amtrak's request to leave the substructure in place; however, it denied that the Department's contractor should be directed or permitted to relocate the utility pole near the southern abutment, if and when any of its projects will require a contractor to remove any embankment material behind the abutment. It is not known whether it will be necessary for the utility pole to be relocated. If utility facilities must be relocated, generally neither the Department nor its contractor relocate such facilities. Public utility companies do their own relocation work, whether they are reimbursed for the costs by others or not. The utility pole is located within public right-of-way; therefore, it is within the Commission's jurisdiction. If the public utility company will not relocate its pole at its sole cost, the matter may be referred to the Commission for allocation of costs.

In its answer, the Department agrees to the modification of Paragraph 3 of the Order adopted May 29, 1987, as requested by Amtrak; however, it does not agree to the addition of paragraph as suggested by Amtrak. In lieu thereof, it requests that the following paragraph be added to the aforementioned Order:

"That National Railroad Passenger Corporation, at such time as the Pennsylvania Department of Transportation requires and offers the embankment material of the southern approach roadway to the former Graham Avenue Bridge to its contractor's to haul away, cooperate with the said Department; should the removal of the embankment material require the demolition of the substructure on the said southside and/or relocation of the utility pole line, the said work shall be done at

no cost or expense to the National Railroad Passenger Corporation."

We have reviewed the instant petition and the answer thereto filed by Pennsylvania Department of Transportation. We find that the request made in the petition is reasonable since Amtrak now states that the abutments as they exist pose no immediate danger to the operation of the railroad or to the traveling public. The reason that this Commission ordered the abutments removed was that Amtrak's witness testified at a hearing held October 5, 1981, that if the demolition of the structure was to be ordered, the removal of the abutments should be included in such an order.

In addition, we find that the additional paragraph suggested by the Department in its answer to Amtrak's petition is proper and acceptable, in lieu of the additional paragraph suggested by Amtrak.

Upon full consideration of all matters involved, we determine that Amtrak's petition should be granted to the extent that the substructure remain in place and thereafter be maintained by Amtrak. We also determine that a paragraph should be added to the prior order covering the possible future removal of the southern approach roadway embankment, abutment and public utility pole; THEREFORE,

IT IS ORDERED:

1. That the petition filed by National Railroad Passenger Corporation on November 16, 1987, be and is hereby granted to the extent hereinafter provided.

2. That Paragraph 3 of the order adopted May 27, 1987 (entered June 5, 1987), which reads as follows:

"3. That National Railroad Passenger Corporation, at its initial cost and expense, on or before November 30, 1987, furnish all material and perform all work necessary to complete the removal of the subject bridge by removing the substructure to a minimum distance of one foot below a plane which slopes upward at an angle of one vertical to one and one-half horizontal in a direction away from the railroad tracks from a point at the face of abutments at the existing ground line; and submit a progress report in writing no later than September 30, 1987, as to the progress of the required work to that date."

be and is hereby modified to read as follows:


3. That National Railroad Passenger Corporation, at its sole cost and expense, furnish all material and perform all work necessary hereafter to maintain the existing substructure of the former Graham Avenue bridge on the northside and southside of the railroad in a manner so as to provide for the continuing safety of the operation of the railroad and of the property owners adjacent to both the railroad right-of-way and the former roadway of Graham Avenue.

3. That an additional paragraph be added to the order adopted May 27, 1987 (entered June 5, 1987) as follows:

6. That National Railroad Passenger Corporation, at such time as the Pennsylvania Department of Transportation requires and offers the embankment material of the southern approach roadway to the former Graham Avenue Bridge to its contractors' to haul away, cooperate with the said Department; should the removal of the embankment material require the demolition of the substructure on said south side and/or the relocation of the public utility pole and overhead wires, the said work shall be done at no cost or expense to National Railroad Passenger Corporation.

4. That in all respects not inconsistent herewith, our order adopted February 5, 1982 (entered March 2, 1982) as modified and amended by our orders adopted June 24, 1983 (entered July 11, 1983) and May 29, 1987 (entered June 5, 1987), shall remain in full force and effect.

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: January 29, 1988

ORDER ENTERED: FEB 08 1988