



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

May 17, 2024

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street 2nd FL  
Harrisburg, PA 17120

A-2024-3048837

**RE: Emergency Application of the Department of Transportation of the Commonwealth of Pennsylvania and the City of Pittsburgh for approval to abolish the public above grade crossing and remove the bridge carrying the abandoned cartway of Pittsburgh & West Virginia Railway Company (and the West Side Belt Railroad Company) above S.R. 0051, DOT Number 472 968G in the City of Pittsburgh, Allegheny County and the allocation of costs incident thereto.**

Dear Secretary Chiavetta,

Enclosed for filing please find the Department's *Prehearing Conference Memorandum* in the above-captioned matter.

I hereby certify that a copy has been sent to all parties of record as indicated by the Certificate of Service.

Very truly yours,

A handwritten signature in cursive script that reads "Karen L. Cummings".

Karen L. Cummings  
Senior Counsel

Cc: Parties of Record  
Mark Chappell, P.E., Utilities and Right of Way Section Chief  
Daniel Leonard, Grade Crossing Engineer, Central Office  
Sarah Fenton, Grade Crossing Engineer, Central Office  
Douglas M. Seeley, P.E., Asst. District Executive, District 11-0  
Michele Acitelli, Manager, District 11-0  
John F. Doherty, Associate Solicitor  
Kevin T. Freyder, Assistant Solicitor

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re. Emergency Application of the Department of	:	
Transportation of the Commonwealth of Pennsylvania	:	A-2024-3048837
and the City of Pittsburgh for approval to abolish the	:	<b>Electronically Filed</b>
public above grade crossing and remove the bridge	:	
carrying the abandoned cartway of Pittsburgh & West	:	
Virginia Railway Company (and the West Side Belt	:	
Railroad Company) above S.R. 0051, DOT Number	:	
472 968G in the City of Pittsburgh, Allegheny County	:	
and the allocation of costs incident thereto.	:	

**APPLICANTS’ PREHEARING CONFERENCE MEMORANDUM**

In accordance with the May 9, 2024, Prehearing Conference Order of Administrative Law Judge Christopher P. Pell in the above-referenced matter, the Department of Transportation (PennDOT) and the City of Pittsburgh (City), collectively “Applicants,” offer the following:

**I. History of the Proceedings:**

On May 2, 2024, Applicants filed an emergency application with the Pennsylvania Public Utility Commission (Commission) for the abolishment, alteration, and removal of the public above grade crossing (Bridge) where the abandoned cartway of Pittsburgh & West Virginia Railway Company crosses State Route (SR) 0051 in the City of Pittsburgh. The application was docketed at A-2024-3048837.

The Bridge was originally established as a highway-rail crossing pursuant to an Order of the Pennsylvania Public Service Commission (PSC) on June 4, 1929, Docket Number 20890-1929. The former crossing carried tracks of the Pittsburgh & West Virginia Railway. It is believed that all rail facilities were removed sometime prior to the early 1960s, however, the railroad never filed an application to abolish the crossing.

On May 15, 2024, Applicants filed a Petition for Special Relief requesting the Commission to find that the Bridge is an immediate danger to the safety and welfare of the public and order its immediate removal and a Petition for Protective Order in anticipation of disclosing confidential bridge inspection reports. The Bridge is severely deteriorated and endangers the traveling public as it crosses SR 51, a principal arterial highway that serves as a critical part of Pittsburgh's urban transportation network.

II. **Issue and the Applicants' Position:**

The condition of the Bridge poses an immediate danger to the safety and welfare of the public and should therefore be abolished and removed as soon as possible. The former crossing was effectively abolished more than 60 years ago when all railroad interests at or near the Bridge were transferred to private entities and the rail facilities were abandoned. The Bridge no longer serves any rail network and, therefore, the determination with regard to removing the Bridge falls within the City's jurisdiction over local roads.

III. **Proposed Plan and Schedule of Discovery:**

Applicants do not anticipate the need for discovery on this issue.

IV. **Testimony and Witnesses:**

- a. PennDOT intends to offer the following witness to address the issue and any questions which are directed to PennDOT:

Michele Acitelli  
District Utility Manager  
Pennsylvania Department of Transportation  
Engineering District 11-0  
45 Thoms Run Road  
Bridgeville, PA 15017

Michele Acitelli is the District Utility Manager and will offer testimony regarding the condition of the Bridge, the immediate danger to the safety of the traveling public that the Bridge poses, the willingness of PennDOT to manage the Bridge's removal, the

available funding for the removal, and the coordination efforts between PennDOT and the City regarding the Bridge removal.

Shane Szalankiewicz  
District Bridge Engineer  
Pennsylvania Department of Transportation  
Engineering District 11-0  
45 Thoms Run Road  
Bridgeville, PA 15017

Shane Szalankiewicz is the District Bridge Engineer and will offer testimony regarding the condition of the Bridge, the immediate danger that it poses, and the proposed removal plans.

Stephanie Zolnak  
District Traffic Engineer  
Pennsylvania Department of Transportation  
Engineering District 11-0  
45 Thoms Run Road  
Bridgeville, PA 15017

Stephanie Zolnak is the District Traffic Engineer and will offer testimony regarding the traffic and safety implications that will result should it be necessary to implement a long-term closure of the highway under the Bridge.

b. The City intends to offer the following witness to address the issue and questions which are directed to the City:

Eric Setzler  
Chief Engineer  
City of Pittsburgh, Department of Mobility and Infrastructure  
301 City-County Building  
414 Grant Street  
Pittsburgh, PA 15219

Eric Setzler is the City's Chief Engineer, responsible for overseeing many of the assets located within the City's public rights-of-way, which would include assets such as streets, bridges, steps, and walls. He also oversees the Bureau of Project Design and Delivery. He will offer testimony regarding the condition of the Bridge, the immediate

danger to the safety of the traveling public that the Bridge poses, the willingness of the City work with Penn DOT's management of the Bridge's removal.

Applicants reserve the right to call additional witnesses deemed necessary or to modify its proposed witnesses as the case develops.

VI. **Possibility of Settlement:**

Applicants do not believe a settlement is likely. Neither the City nor PennDOT will consent to assuming the cost of repair and future ownership and maintenance of a bridge that does not facilitate rail operations over a highway and only serves as an access point to one private property owner who is able to access its property in another location.

VII. **Hearing Time:**

Pursuant to its Petition for Special Relief, Applicants request a finding by the Commission that the Bridge is an immediate danger to the safety and welfare of the public and to order the immediate removal of the Bridge pursuant to its authority under 66 Pa.C.S. §§ 2702(c) and (f). Applicants have also filed a Petition for Protective Order in advance of disclosing confidential bridge inspection reports. Upon issuance of a Protective Order, Applicants propose providing the Commission with inspection reports and, if the Commission deems necessary, Applicants request that the Commission immediately schedule a hearing limited to the issue of whether the Bridge is an immediate danger to the safety of the public.

Applicants anticipate it will need approximately 4 hours to present its testimony.

Should the request for an immediate hearing on the Petition for Special Relief be granted, Applicants anticipate it will need 4 hours to present its testimony on any remaining issues.

Should the request for an immediate hearing on the Petition for Special Relief be denied, Applicants anticipate it will need one full day to present its testimony on all issues.

VIII. **Proposed Litigation Schedule:**

The parties have not agreed to a litigation schedule prior to the filing of this statement. Should the Commission grant Applicants' Petition for Special Relief, Applicants propose the following litigation schedule for any remaining issues to be decided for the parties' consideration:

- Written direct testimony due on July 29, 2024;
- Written rebuttal testimony due on August 26, 2024;
- Witness schedule due 3 business days before the hearing;
- Hearing to occur the week of September 23, 2024; and,
- Briefing schedule to be established at the hearing.

IX. **Lead Representative:**

In accordance with the May 9, 2024, Order, PennDOT designates Karen L. Cummings, Senior Counsel, as its lead representative and the City designates John F. Doherty, Associate City Solicitor, for the purposes of the May 22, 2024 prehearing conference.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION



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CITY OF PITTSBURGH

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DATED: May 17, 2024

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Railroad Company) above S.R. 0051, DOT Number :  
472 968G in the City of Pittsburgh, Allegheny County :  
and the allocation of costs incident thereto. :

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon  
the participants listed below:

**Service by Electronic Mail**

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Respectfully submitted,  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

  
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DATED: May 17, 2024

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