

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Emergency Application of the Department of	:	
Transportation of the Commonwealth of	:	
Pennsylvania and City of Pittsburgh for the	:	
Approval to Abolish the Public Above Grade	:	A-2024-3048837
Crossing and Remove the Bridge Carrying the	:	
Abandoned Cartway of Pittsburgh and West	:	
Virginia Railway Company (and the West Side Belt	:	
Railroad Company) above S.R. 0051 in the	:	
City of Pittsburgh, Allegheny County and the	:	
Allocation of Costs Incident Thereto	:	
Petition for Interim Emergency Order Under	:	
52 Pa.Code § 3.6	:	

**ORDER GRANTING INTERIM EMERGENCY RELIEF  
AND CERTIFYING MATERIAL QUESTION**

On June 3, 2024, and June 4, 2024, I conducted an evidentiary hearing on the Petition of the Pennsylvania Department of Transportation and the City of Pittsburgh for Interim Emergency Order Under 52 Pa.Code § 3.6 (3.6 Petition).<sup>1</sup> The Department seeks authorization from the Commission to remove a bridge that crosses a major highway in the City of Pittsburgh as planned in July and August 2024. An adjacent landowner opposes the 3.6 Petition. For the reasons set forth below I conclude that the Department has met its burden of proving that an Interim Emergency Order should be granted.

History of the Proceedings

On May 2, 2024, the Pennsylvania Department of Transportation (Department) and the City of Pittsburgh (City) filed an “Emergency Application” for approval to abolish a public above-grade crossing and remove a bridge (Bridge) carrying the abandoned cartway of

---

<sup>1</sup> Hereafter I will refer solely to the Department for ease of reading. Both the Department and the City have filed the application and petitions jointly and both actively participated in the hearing on this matter.

Pittsburgh & West Virginia Railway Company above State Route (S.R.) 51 (Application).<sup>2</sup> The Application included a location map and final structure plans for the project. The Department and the City represented that due to serious structural concerns the structure was scheduled for demolition. In the course of ongoing legal disputes with Wabash Properties, LLC (Wabash or Wabash Properties), the adjacent property owner, the Allegheny County Court of Common Pleas directed the Department and the City to coordinate with the PUC regarding the status of the crossing.<sup>3</sup> The Commission docketed the Application at A-2024-3048837.

By letter dated May 3, 2024, the Commission’s Rail Safety Division scheduled a virtual field investigation for Tuesday May 7, 2024.

Counsel for Wabash Properties entered an appearing on May 6, 2024.

Following the virtual field investigation, the Rail Safety Division referred the Application to the Office of Administrative Law Judge for an “expedited” hearing, noting the objection to the Application by Wabash Properties. By notice dated May 9, 2024, OALJ assigned the Application to Deputy Chief Administrative Law Judge Christopher Pell and scheduled a prehearing conference by telephone for May 22, 2024. DCALJ Pell issued a prehearing conference order on May 9, 2024.

On May 15, 2024, the Department and the City filed a Petition for Special Relief Under 66 Pa.C.S. § 2702(f) (Petition for Special Relief). In the Petition for Special Relief, the Department and the City represented that the crossing had never been formally abolished by application to the Commission. The Department and the City also represented that S.R. 51<sup>4</sup> is a principle arterial highway, connecting a multitude of very important neighborhoods as well as the Liberty Bridge and Tunnel and Fort Pitt Bridge and Tunnel. The significantly deteriorated condition of the Bridge raises significant safety concerns to the travelling public, which may necessitate the closure of S.R. 51 if the Bridge is not promptly removed. Accordingly, the

---

<sup>2</sup> The caption was amended at the hearing on June 3, 2024, to remove the reference to “DOT Number 472 968G.” Upon investigation, the Department determined that S.R. 51 does not have a DOT number. Tr. 44, 49.

<sup>3</sup> The court also joined the Department as a necessary party and transferred the matter to the Commonwealth Court.

<sup>4</sup> S.R. 51 is also locally known as Sawmill Run Blvd.

Department and the City requested that the Commission make a finding of immediate danger to the public and order the removal of the Bridge pursuant to 66 Pa.C.S. § 2702(f).

As directed by DCALJ Pell's prehearing order, the Department and Wabash Properties filed prehearing memoranda. In its memorandum, Wabash Properties objected to the Application and removal of the Bridge. Specifically, Wabash Properties represented that it owned the property on both sides of the Bridge, that it owns a right-of-way over the Bridge and that the Bridge offers essential access to an automobile parts distribution center. According to Wabash Properties, the City owns the Bridge but has failed to maintain it. Wabash further argued that the Bridge could be repaired rather than removed. Finally, Wabash contends that the Commission does not have jurisdiction to approve the removal of the Bridge by virtue of ongoing proceedings in the Commonwealth Court.

The prehearing conference before DCALJ Pell convened as scheduled on May 22, 2024. Counsel for the Department, the City and Wabash Properties appeared. Counsel for Wheeling & Lake Erie Railway Company also appeared. During the prehearing conference, the Department represented that it would be filing a petition for an interim emergency order under Section 3.6 of the Commission's regulations. The Department represented that the condition of the Bridge was a significant concern to the safety of the travelling public.

As represented, the Department filed a Petition for Interim Emergency Relief Under 52 Pa.Code § 3.6 (3.6 Petition) on May 22, 2024.<sup>5</sup> By notice dated May 22, 2024, the matter was reassigned to me. I scheduled an in-person hearing on the 3.6 Petition for June 3, 2024, in Pittsburgh and served a prehearing order on May 23, 2024.

Also on May 22, 2024, Wabash filed Preliminary Objections to the Application. On May 24, 2024, I issued an order striking the Preliminary Objections because Wabash Properties had not made the appropriate filing to become a party to the case. On May 27, 2024, Wabash filed a Protest. Wabash also filed a Petition to Intervene on May 29, 2024.

---

<sup>5</sup> The Secretary's Bureau did not assign a separate docket to the Petition. The 3.6 Petition incorporates the averments in the Petition for Special Relief.

Wabash filed an Answer and New Matter to the Petition. the Department and the City filed a Reply to Answer and New Matter on May 29, 2024.

The Department filed a Petition for a Protective Order on May 15, 2024, and a Department a Supplemental Petition for Protective Order on May 22, 2024. By email Wabash indicated that it objected to the language in the proposed order included with the petition for protective order. The parties represented that they would discuss the proposed order and attempt to agree on language for a proposed order. By email dated May 31, 2024, the parties submitted a revised protective order to which all of the parties agreed. I informed the parties that I would grant the petition for protective order and issued the Protective Order on May 31, 2024.

By email dated May 31, 2024, I notified the parties that I would grant Wabash's Petition to Intervene. I also cautioned that the issue for the Emergency Hearing would be limited to the question of whether the condition of the bridge constitutes an "emergency" necessitating its immediate removal within the meaning of the Public Utility Code and regulations.

Hearings were held on June 3, 2024, and June 4, 2024. Counsel for the Department, the City and Wabash appeared and participated. The Department offered the testimony of three witnesses: Michele Acitelli, P.E., Jason Zang, P.E., and Stephanie Zolnak. The Department Exhibits 1-7 were admitted into evidence.<sup>6</sup> Wabash offered the testimony of two witnesses: John Schneider, P.E., and David Rohrich. Wabash Exhibits A, B, C, E, F, G, H, K, L, M, N, O, P, R, S, T, U, and V were admitted into the record.<sup>7</sup>

The Commission has the authority, pursuant to 66 Pa. C.S. §2702, to order the construction, reconstruction, alteration, repair, protection, suspension or abolition of a rail highway crossing, as well as the authority to determine and order which parties shall perform such work at the crossing and which parties shall maintain the crossing in the future in order to prevent accidents and promote the safety of the public.<sup>8</sup> This includes the authority to determine and prescribe the manner in which such a crossing may be constructed, altered, relocated,

---

<sup>6</sup> DOT Ex. 6/Wabash Ex. O were identified as Confidential Security Information.

<sup>7</sup> Wabash Exhibits K, L, M, N, and O were identified as Confidential Security Information.

<sup>8</sup> Southeastern Pennsylvania Trans. Auth. v. Pa. Pub. Util. Comm'n., 592 A.2d 797 (Pa. Cmwlth. 1991), alloc. denied, 611 A.2d 714 (Pa. 1992).

suspended, abolished, maintained, operated or protected.<sup>9</sup> The Commission is also empowered, to order the relocation, alteration, suspension or abolition of a crossing upon such reasonable terms and conditions as the Commission prescribes.<sup>10</sup> The Commission retains jurisdiction over rail crossings until the Commission has authorized the abolition of the crossing, even where the railroad no longer operates at the crossing or owns the property.<sup>11</sup>

Further, the Commission has the authority to authorize the immediate removal of a bridge pursuant to Section 2702(f):

Upon the commission's finding of an immediate danger to the safety and welfare of the public at any such crossing, the commission shall order the crossing to be immediately altered, improved, or suspended. Thereafter hearing shall be held and costs shall be allocated in the manner prescribed in this part.<sup>12</sup>

The Bridge is an overhead concrete structure that crosses over S.R. 51, just south of the Fort Pitt Tunnel. It is a "three-span steel I-beam and riveted girder bridge supported by steel columns and concrete abutments."<sup>13</sup> In 1929 the Commission's predecessor, the Public Service Commission, issued a certificate of public convenience to the County of Allegheny to construct the crossing at Docket 20890-1929.

The Bridge was constructed in or around 1929 for the Pittsburgh & West Virginia Railway Company. It is an above-grade crossing and spans State Route 51, also known as Sawmill Run Boulevard. At some point decades ago, the tracks were removed at the crossing, and it has not been used for rail service for at least 80 years. Until recently, Wabash Properties used the Bridge for employee parking and as a driveway for trucks making deliveries to and from

---

<sup>9</sup> 66 Pa.C.S. § 2702(b).

<sup>10</sup> 66 Pa.C.S. § 2702(c); *Pennsylvania Game Comm'n v. Pennsylvania Pub. Util. Comm'n.*, 651 A.2d 596 (Pa. Cmwlth. 1994), alloc. denied, 664 A.2d 977 (Pa. 1995).

<sup>11</sup> See *Norfolk Southern Railway Co. v. Pa. Pub. Util. Comm'n.*, 875 A.2d 1243 (Pa. Cmwlth. 2005); *Cf. Investigation upon the Commission's Motion (Blackburn Tunnel)*, Docket I-2019-3012769 (Opinion and Order entered December 8, 2022) (Because a railroad did not seek Commission authorization to abolish a crossing, the Commission has the authority to order the railroad to perform work to alter the crossing.)

<sup>12</sup> 66 Pa.C.S. § 2702(f).

<sup>13</sup> Application ¶ 11.

the auto parts warehouse located on adjacent property. Portions of the Bridge were closed in 2020. The Department closed the Bridge entirely by erecting concrete barriers at both ends in December 2023.

Currently the Bridge is owned by the City of Pittsburgh, but via a work agreement with the Department, the Department has temporary ownership of the bridge as part of the project to remove the bridge. The Department has agreed to manage the demolition project. Letting of the project to a selected contractor was completed on April 18, 2024. The Department has scheduled the Bridge removal between July and August 2024.<sup>14</sup> The Department has secured federal funding for the construction activities necessary to remove the Bridge.

This matter now comes before the Commission as a result of legal disputes between Wabash and the City, wherein the parties were directed to coordinate with the Commission regarding the status of the crossing.<sup>15</sup> Commission records revealed that a Certificate of Public Convenience was issued to Allegheny County to construct the Bridge in 1929, but there were no records that the crossing had ever been abolished. Accordingly, the Department filed the Application to remove the Bridge and abolish the crossing. The Application included Final Structure Plans for the project.

The issue the Commission must resolve in this emergency proceeding is whether the current condition of the Bridge justifies the Commission authorizing the Department to remove the Bridge on an expedited basis.

Emergency relief is governed by 52 Pa.Code §§ 3.1-3.12. The provision at 52 Pa.Code § 3.1 defines an emergency as follows:

A situation which presents a clear and present danger to life or property, or which is uncontested and requires action prior to the next scheduled public meeting.

52 Pa. Code § 3.1.

---

<sup>14</sup> See Application

<sup>15</sup> See Petition for Special Relief at ¶¶ 33-35.

The Commission will only grant an interim emergency order, if the party seeking relief proves by a preponderance of the evidence that the facts and circumstances meet all four of the requirements set forth in 52 Pa.Code § 3.6(b). If the party seeking relief fails to prove any one of the four requirements, the Commission will deny the relief requested.<sup>16</sup> The party seeking relief must demonstrate the following:

1. The petitioner's right to relief is clear.
2. The need for relief is immediate.
3. The injury would be irreparable if relief is not granted.
4. The relief requested is not injurious to the public interest.

52 Pa.Code § 3.6(b).

#### The Right to Relief is Clear

The Department, like the Commission, is tasked by the General Assembly to protect the safety of the travelling public. As explained above, the Commission retains jurisdiction regarding the disposition of the Bridge by virtue of the authority granted by Section 2702 of the Public Utility Code. As S.R. 51 is a state highway and crosses below the Bridge, the Department also has an interest in the crossing. Even though Wabash seeks relief from the Commonwealth Court regarding its position that the City is obligated to maintain the Bridge forever, the Commission has the authority to direct the disposition of the Bridge as the Department requests in order to protect the safety of the travelling public.<sup>17</sup>

The Department seeks to remove the Bridge because, in the Department's view, the condition of the Bridge has deteriorated to the point that it creates a risk to the 40,000 vehicles per day that cross underneath the bridge. The Bridge deck has been closed to pedestrian and vehicle traffic, first by the City in 2020 and later by the Department in 2023 with concrete barriers bolted to the top of the Bridge. The Bridge is inspected every three months.

---

<sup>16</sup> Crums Mill Assoc. v. Dauphin Consolidated Water Supply Co., 1993 PA PUC LEXIS 90 (1993).

<sup>17</sup> 66 Pa. C. S. § 2702(f).

The Department witness, Jason Zang, P.E. District Executive for the Department's Engineering District 11-0 testified at length regarding the condition of the Bridge.<sup>18</sup> In his view, the removal of the Bridge is the best long-term option to ensure the safety of vehicles and pedestrians on S.R. 51. Furthermore, he emphasized the importance of completing the project during the 2024 construction season because deterioration could require him to direct the closure of S.R. 51. The Department has federal funding in place to remove the Bridge, but no funding is currently available to repair the Bridge. The Department is not in a position to repair the Bridge in the next two months. Mr. Zang stated that even if repairs were made to the Bridge now, there is a risk that the repairs themselves would further compromise the structural integrity of the Bridge or that more repairs would be required next year.

Wabash Properties offered the testimony of John M. Schneider, P.E. In Mr. Schneider's opinion, repairs to the Bridge rather than removal of the Bridge is a viable option and full demolition of the Bridge is not warranted.<sup>19</sup> Among other things, Mr. Schneider reviewed preliminary repair and renovation plans that Wabash commissioned for the Bridge. He also visited the Bridge to observe the condition of the beams and columns and base of the deck that was visible from below the structure. Although he offered the opinion that the repairs would extend the useful life of the Bridge, he could not specify a time period or a clear opinion that the repairs would permit the restoration of the use of the top of the Bridge by Wabash.

Mr. Zang's testimony was more credible and convincing than the testimony offered by Mr. Schneider. While both are professional engineers with significant expertise in their respective disciplines, I am not convinced that Mr. Schneider's expertise as a structural engineer carries the same weight of Mr. Zang's expertise in bridge engineering. Mr. Schneider's engineering experience has largely involved the construction and renovation of buildings and

---

<sup>18</sup> Every effort has been made to avoid including confidential or proprietary information in this order. This effort is hampered by the failure of either party to clearly mark which portions of testimony and memoranda which should be designated as confidential. Mr. Zang's initial hearing testimony was marked as proprietary because many of the documents he relied upon for his opinion were marked as Confidential Security Information. Accordingly, a detailed review of the specifics of his testimony will not be repeated here. The Department offered a succinct summary of his testimony regarding the condition of the Bridge in its Memorandum in Support of Emergency Relief at pp. 7-8. Mr. Zang's rebuttal testimony was not marked as confidential.

<sup>19</sup> As with Mr. Zang's testimony, Mr. Schneider's testimony was marked as Confidential and will not be repeated in detail here.

other structures such as parking garages. He has no experience of any consequence in the structural requirements of bridges generally, and no experience with highway bridges.

In contrast, most of Mr. Zang's professional career has involved the engineering and evaluation of bridges. His current responsibilities include the safety on construction of state roads in bridges. He was qualified as an expert in this proceeding specifically as an expert in bridge engineering.

Therefore, I assign more weight to Mr. Zang's opinion that the Bridge should be removed than to Mr. Schneider's opinion that there is no need to demolish the Bridge and it should be repaired instead. Accordingly, I find that the Department sustained its burden of proving that its right to relief is clear within the meaning of Section 3.6. That is, the 3.6 Petition raises a substantial legal question and the Department adduced sufficient evidence to conclude that it has a reasonable expectation of success on the merits of a proceeding on the underlying application.<sup>20</sup>

The Need for Relief is Immediate.

The Department asserts that the need for relief is immediate. This position is also supported by Mr. Zang's testimony and his opinion that the Bridge should be removed during the 2024 construction season. The Bridge superstructure is rated as "poor", and the substructure is rated as "serious." In recent years the Bridge has required temporary supports and steel repairs to its columns and beams.<sup>21</sup> He noted that if the condition of the Bridge deteriorates further, it may be necessary to close S.R. 51 which would cause a significant disruption to the travelling public in Pittsburgh. The Department's witness Stephanie Zolnak, a Department traffic engineer, testified that S.R. 51 is a considered an arterial highway. It serves as a critical connection into and out of Pittsburgh.

---

<sup>20</sup> T.W. Phillips Gas and Oil Co. v. The Peoples Natural Gas Co., 492 A.2d 776 (Pa. Cmwlth. 1985); Core Communications, Inc. v. Verizon Pennsylvania Inc., PUC Docket No. P-2011-2253650 (Opinion and Order entered September 23, 2011).

<sup>21</sup> See Application ¶ 11.

Wabash asserts that the need for relief is not immediate because the Bridge could be repaired. According to Wabash, the Commission should instead enforce the conditions of the 1929 Certificate of Public Convenience and require the City to repair or renovate the Bridge.

However, Mr. Schneider conceded that his recommended repairs could not likely be completed by August 2024. Mr. Zang stated that the Department is not in a position to repair the Bridge by July or August 2024.<sup>22</sup> Even if the recommended repairs could be completed during the summer of 2024, there is no funding in place from the Department or any other entity.

The Injury Would be Irreparable if Relief is Not Granted.

If relief is not granted, it is not likely that the Department can not complete the Bridge removal project during the summer construction season. Mr. Zang noted in his testimony that in his considerable experience managing bridges in District 11-0, it takes time to plan and design a project and secure the funding to complete a project of this nature. The federal funds were granted to the Department to remove the Bridge, not to repair the Bridge. If the Commission does not grant the approval to remove the Bridge, it is not likely that the Commission's litigation process and decision on the ultimate disposition of the crossing could be completed during the current construction season.

Although there was no testimony in the record that the Department would lose the federal funding if the project had to be deferred, the implication is certainly that there would be an impact on the financing and timeframe for completion of the project. Such a delay in the project may result in the Bridge deteriorating to the point that S.R. 51 would be closed for a longer term than the 17 days required under the construction current plans.

Wabash argues that it will suffer irreparable harm if the Bridge is demolished. Mr. Rohrich he employs 60 people at the auto parts distribution facility. He testified that the large semi trucks that deliver inventory to his facility have a difficult time making deliveries without access to the Bridge. The barriers that are currently in place make it very difficult for trucks to turn around to exit the property, and the removal of the Bridge may make the process more difficult.

---

<sup>22</sup>

The Bridge is currently scheduled for removal in July or August 2024.

However, Wabash has been utilizing alternative, if less than ideal, methods of ingress and egress from its property since the Bridge was partially closed in 2020 and fully closed in late 2023. Mr. Rohrich stated that he was concerned that the removal of the Bridge would result in a smaller parcel for the semi-trucks to turn around to exit the property. Mr. Zang testified that the post-removal area at the top of the structure would be reduced by six inches. Therefore, while it may be very inconvenient for Wabash to access its property without access to the Bridge, there is an alternate route available.

The Relief Requested is Not Injurious to the Public Interest.

As explained above, Wabash will be negatively impacted by the removal of the Bridge, largely due to the difficulty of large semi-trucks to easily access and turn around on the property.

The Commission's consideration of the public interest focuses on the safety of the public at large. In past decisions, the Commission has permitted the removal of a bridge even where individuals will be negatively impacted. There are cases where the Commission has ordered the removal of crossing structures and the abolishment of crossings<sup>23</sup> despite negative impacts on some members of the public.

In *Monroeville v. Pa. Publ. Util. Comm'n*,<sup>24</sup> the municipality appealed from an order of the Commission which directed the immediate closure of a bridge and the assessment of maintenance costs and responsibilities to the Department of Transportation. The municipality appealed because the Commission failed to set a timetable for the reconstruction of the bridge. Specifically, the municipality argued that the indefinite closure placed a great traffic burden on other areas of the municipality. The Commission considered the impact on traffic patterns in the surrounding area and relied on the municipality's study that the reopening of the bridge would be neutral overall because the traffic patterns would simply shift, relieving traffic in some areas but increasing it in others. The Commission also found that the road functions as a minor arterial route which serves only a few homes. The Commission balanced the poor condition of the road and bridge and concluded that it was appropriate to close the bridge. The Commonwealth Court

---

<sup>23</sup> The emergency order is not authorizing the abolishment of the crossing at this time.

<sup>24</sup> 600 A.2d 655 (Pa. Cmwlth. 1991).

held that the Commission had appropriately weighed safety factors and lack of public necessity and that the order suspending the crossing was reasonable.

The Commission's decision in *Schwartz v. Delaware and Hudson Railway Company Inc.*,<sup>25</sup> also permitted the abolishment of a crossing even though a bridge crossing connected two parts of the complainant's property which was bisected by the railroad. The Commission determined that the evidence addressed the complainant's personal need for the crossing, it did not demonstrate that a public location at the crossing was necessary. The presiding administrative law judge in reviewing the evidence considered that neither the municipalities nor the Commonwealth's transportation systems benefited from the crossing because motorists were able to use the detours established while the crossing was closed. The ALJ also noted that the use of the bridge was minimal and that there was no evidence that amount of traffic at the crossing would increase in the future. The Commission adopted the ALJ's recommendation.<sup>26</sup>

Similarly, the Commission approved the removal of a bridge and the abolishment of a rail crossing even though the removal of the bridge would require several residents to travel by alternative routes to get to their homes.<sup>27</sup> While acknowledging that the residents would be "significantly inconvenienced" by the removal of the bridge, the Commission concluded that there were reasonable alternative routes available, emergency responders had made adjustments to their routes during the period of time the bridge had been closed and none of the affected municipalities objected to the removal of the bridge and the abolishment of the crossing.

Here, Wabash has not been able to use the Bridge for parking and truck access for some time. Yet Wabash has been able to continue to operate at the site using alternative, albeit less than ideal, means. Moreover, granting the 3.6 Petition does not resolve the ultimate disposition of the crossing and does not foreclose further Commission orders. Nor does the

---

<sup>25</sup> Docket Nos. C-2011-2237486, P-2011-2241780 (Opinion and Order entered December 5, 2013).

<sup>26</sup> *Id.*

<sup>27</sup> *Application of Buffalo & Pittsburgh Railroad*, Docket No. A-2015-2514790 (Order adopting Initial Decision entered May 17, 2018).

removal of the Bridge necessarily preclude Wabash's claims against the City in the Commonwealth Court.<sup>28</sup>

If the condition of the Bridge further deteriorates, the Department may be required to close S.R. 51, which would result in detours for the more than 40,000 vehicles that use the route, including cars, trucks, school buses and public transit. Trucks carrying hazardous and oversized loads cannot be re-routed through the tunnels and would require significant detours. Pittsburgh would lose the connection of a high-volume roadway and be very disruptive to the travelling public.

After considering these factors, on balance, I conclude that granting the Department's 3.6 Petition is not injurious to the public interest. Therefore, the Department has met its burden of proving all four factors required under Section 3.6. The 3.6 Petition will be granted.

Pursuant to 52 Pa.Code § 3.10(b), the question of granting or denying relief by an interim emergency order shall be certified to the Commission as a material question to be processed in accordance with 52 Pa.Code § 5.305. The Commission will conduct further proceedings on the issues raised by the other pleadings after the Commission has ruled on this order granting interim emergency relief pursuant to 52 Pa.Code § 5.305.

THEREFORE,

IT IS ORDERED:

1. That the Petition for Interim Emergency Order Under 52 Pa. Code §3.6, filed on May 22, 2024, by the Pennsylvania Department of Transportation, is granted.

2. That the Department of Transportation is authorized to remove the bridge carrying the abandoned cartway of Pittsburgh & West Virginia Railway Company (and West Side

---

<sup>28</sup> See Consolidated Rail Corp. v. City of Harrisburg, 842 A.2d 369 (Pa. 2004).

Belt Railroad Company) above S.R. 0051 in the City of Pittsburgh, Allegheny County, consistent with the Final Structure Plans attached to the May 2, 2024, Application.

3. That grant of relief by interim emergency order in the proceedings at Docket Number A-2024-3048837, is hereby certified to the Commission as a material question requiring interlocutory review.

Date: June 6, 2024

\_\_\_\_\_  
/s/  
Mary D. Long  
Administrative Law Judge

**A-2024-3048837 - 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**

KAREN CUMMINGS ESQUIRE  
NICHOLAS D MERTENS ESQUIRE  
PENNDOT  
PO BOX 8212  
HARRISBURG PA 17105-8212  
**717.787.3128**  
**717.772.6985**  
[kcummings@pa.gov](mailto:kcummings@pa.gov)  
[nimertens@pa.gov](mailto:nimertens@pa.gov)  
Accepts eService

KRYSIA M KUBIAK ESQUIRE  
KEVIN FREYDER ESQUIRE  
JOHN F DOHERTY ESQUIRE  
CITY OF PITTSBURGH LAW  
DEPARTMENT  
414 GRANT STREET  
313 CITY-COUNTY BUILDING  
PITTSBURGH PA 15219  
**412.255.2001**  
**412.255.2016**  
**412.977.4306**  
[krysia.kubiak@pittsburghpa.gov](mailto:krysia.kubiak@pittsburghpa.gov)  
[Kevin.freyder@pittsburghpa.gov](mailto:Kevin.freyder@pittsburghpa.gov)  
[john.doherty@pittsburghpa.gov](mailto:john.doherty@pittsburghpa.gov)  
Accepts eService

JONATHAN M KAMIN ESQUIRE  
JONATHAN PRESTON ESQUIRE  
GOLDBERG KAMIN GARVIN LLP  
437 GRANT STREET STE 1806  
PITTSBURGH PA 15219  
**412.218.1119**  
[jonathank@gkgattorneys.com](mailto:jonathank@gkgattorneys.com)  
[jpreston@gkgattorneys.com](mailto:jpreston@gkgattorneys.com)  
Served by email and USPS First-Class Mail

JENNA R DIFRANCESCO ESQUIRE  
CIPRIANI & WERNER PC  
Cipriani & Werner PC  
650 WASHINGTON ROAD SUITE 700  
PITTSBURGH PA 15228  
**412.563.2500**  
**570.809.2185**  
[jdifrancesco@c-wlaw.com](mailto:jdifrancesco@c-wlaw.com)  
Accepts eService  
*Counsel represents Wabash Properties LLC*

KATHLEEN JONES GOLDMAN  
BRADLEY J KITLOWSKI COUNSEL  
BUCHANAN INGERSOLL & ROONEY  
PC  
501 GRANT STREET SUITE 200  
UNION TRUST BUILDING  
PITTSBURGH PA 15219  
**412.562.1401**  
**412.562.8368**  
**412.401.2761**  
[kathleen.goldman@bipc.com](mailto:kathleen.goldman@bipc.com)  
[bradley.kitlowski@bipc.com](mailto:bradley.kitlowski@bipc.com)  
Accepts eService  
*Counsel represents Wheeling & Lake Erie  
Railway Company*