



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

June 4, 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 and City of Pittsburgh's *Joint Memorandum in Support of Emergency Relief* in the above-captioned matter. Please note that Memorandum has **not** been E-Filed as it contains references to various documents and information which constitutes confidential security information. Pursuant to 52 Pa. Code § 102.3, please find enclosed both a redacted copy for public filing and an unredacted copy for the confidential file in a separate sealed envelope.

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

Very truly yours,

Nicholas D. Mertens
Assistant Chief Counsel

cc: Mary Long, Administrative Law Judge
Parties of Record
Mark Chappell, P.E., Utilities and Right of Way Section Chief
Daniel Leonard, Grade Crossing Engineer, Central Office
Douglas M. Seeley, P.E., Asst. District Executive, District 11-0
Sarah Fenton, Grade Crossing Engineer, Central Office
Michele Acitelli, Manager, District 11-0

DATE OF DEPOSIT
JUN 04 2024
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**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	:	
public above grade crossing and remove the bridge	:	DATE OF DEPOSIT
carrying the abandoned cartway of Pittsburgh & West	:	
Virginia Railway Company (and the West Side Belt	:	JUN 04 2024
Railroad Company) above S.R. 0051, DOT Number	:	
472 968G in the City of Pittsburgh, Allegheny County	:	PA PUBLIC UTILITY COMMISSION
and the allocation of costs incident thereto.	:	SECRETARY'S BUREAU

JOINT MEMORANDUM IN SUPPORT OF EMERGENCY RELIEF

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation (hereinafter "Department"), by and through Nicholas D. Mertens, Assistant Chief Counsel, the City of Pittsburgh ("City") (collectively referred to herein as "Petitioners"), by and through Kryisia M. Kubiak, Solicitor, John F. Doherty, Associate Solicitor, and Kevin T. Freyder, Assistant Solicitor, and files the within memorandum in support of the Petition for Interim Emergency Order:

I. PETITIONERS' REQUESTED RELIEF AND BURDEN

On May 15, 2024, the Petitioners requested special relief pursuant to Section 2702(f) of the Public Utility Code. 66 Pa.C.S. § 2702(f). The relief sought the alteration, by removal, of the subject highway-rail crossing bridge because its condition poses an immediate danger to the safety and welfare of the traveling public. Subsequently, on May 22, 2024, the Petitioners filed a joint Petition for Interim Emergency Order Under 52 Pa. Code § 3.6 requesting that the Petition for Special Relief be granted under the Public Utility Commission's ("PUC") interim emergency relief procedures at 52 Pa. Code §§ 3.6-3.12, authorizing an emergency hearing. The Petitioners seek an interim order to remove the subject bridge as soon as possible and on a timeline sufficient to ensure

the protection of the traveling public pursuant to the plans submitted by the Department. Section 2702(f) of the Public Utility Code specifically states:

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.

66 Pa.C.S. § 2702(f). Chapter 3 of PUC's regulations require the petitioner to demonstrate that the: (1) petitioner's right to relief is clear; (2) need for relief is immediate; (3) injury would be irreparable if relief is not granted; and, (4) relief requested is not injurious to the public interest. 52 Pa. Code §§ 3.6(b)(1)-(4).

Wabash properties, LLC ("Wabash") intervened in the matter and filed an Answer and New Matter to the Petition for Emergency Interim Order on May 27, 2024. Wabash objects to the removal of the bridge and claims that the PUC does not have jurisdiction over the bridge.

The Petitioners bear the burden of proving that the facts and circumstances meet all four of the requirements of 52 Pa. Code § 3.6(b). 66 Pa.C.S. § 332(a). The burden of proof must be carried by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. den.*, 602 A.2d 863 (Pa. 1992). Stated otherwise, the Petitioners' evidence must be more convincing—by even the smallest amount—than that presented by the non-moving party. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950). Additionally, any finding of fact necessary to support the PUC's decision must be based upon substantial evidence. *See Edan Transportation Corp. v. Pa. PUC*, 623 A.2d 6 (Pa. Cmwlth. 1993); *Mill v. Pa. PUC*, 447 A.2d 1100 (Pa. Cmwlth. 1982). Based upon the testimony presented by the Petitioners and for the reasons stated below, the Petitioners have met their burden.

II. ARGUMENT

a. The PUC has jurisdiction over the subject highway-rail crossing.

The alteration and abolishment of the subject highway-rail crossing bridge rests within exclusive jurisdiction of the PUC. Section 2702(a) of the Public Utility Code expressly states that:

No public utility, engaged in the transportation of passengers or property, shall, without prior order of the commission, construct its facilities across the facilities of any other such public utility or across any highway at grade or above or below grade, or at the same or different levels; and no highway, without like order, shall be so constructed across the facilities of any such public utility, and, without like order, no such crossing heretofore or hereafter constructed shall be altered, relocated, suspended or abolished.

66 Pa.C.S. § 2702(a). More specifically, the within proceeding implicates the statutory mandate of the PUC, which is aimed at “the prevention of accidents and the promotion of the safety of the public.” 66 Pa.C.S. § 2702(b). The protection of the traveling public is the paramount issue in the matter *sub judice*.

The subject crossing was established pursuant to an Order of the Public Service Commission in 1929 on the application submitted by the County of Allegheny. Department Exhibits 1-3. At that time, the bridge crossing Saw Mill Boulevard (which eventually became State Route 51) was utilized by the Pittsburgh & West Virginia Railway Company. At some time in the 1950s or early 1960s the bridge was no longer utilized by the Pittsburgh & West Virginia Railway Company. The property which borders both ends of the bridge was sold to the Hahn Furniture-Company by Pittsburgh & West Virginia Railway Company in 1961. However, after research by the Department in cooperation with the PUC’s engineers, it was discovered that the highway-rail crossing was never abolished under a PUC proceeding, nor does it appear that the impacted rail line was subject to a formal abandonment proceeding through the federal process before either the Interstate Commerce Commission or the Surface Transportation Board.

Despite the *informal* abolishment of the crossing and abandonment of the subject rail line, the PUC still retains jurisdiction over the crossing. In *Norfolk S. Ry. Co. v. Pa. PUC*, 875 A.2d 1243 (Pa. Cmwlth. 2005), the Commonwealth Court held that an Order of the Public Service Commission remains enforceable until vacated or modified by the PUC. The crossing has not been the subject of any PUC action since its predecessor agency issued the Order granting a certificate of public convenience in 1929. Furthermore, the fact that the railroad has not owned the subject area does not divest the PUC of its jurisdiction. See *PA Game Comm'n v. Pa PUC*, 651 A.2d 596 (Pa. Cmwlth. 1994) *appeal denied*, 664 A.2d 977 (Pa. 1994) (PUC retains jurisdiction over a highway-rail crossing even when the property is no longer owned by the railroad); *see also AT&T v. Pa PUC*, 737 A.2d 201 (Pa. 1999) (Section 2702(a) precludes any party from physical alteration of a crossing without PUC approval); *Dep't of Transp. v. Pa PUC*, 282 A.2d 313, 316 (Pa. Cmwlth. 1971) (the Commission has the exclusive jurisdiction to determine whether and how a rail-highway crossing should be abolished, as well as to determine which party or parties should bear the costs of such abolition).

Wabash alleges that the PUC's interest is divested by the fact that the rails were removed and that the crossing has not been utilized in sixty years or so. However, this position is not supported by the case law or by the plain language of the Public Utility Code, and the PUC's statutory obligation to protect public safety. As such, the relief sought by the Petitioners is both jurisdictionally permissible, and as discussed *infra*, appropriate in the present matter.

b. The Department and City have met their burden regarding the emergency relief.

1. The Petitioners have a significant interest in removal of the subject bridge and their right to relief is clear.

The first element that a petitioner needs to demonstrate when seeking emergency relief is that the "right to relief is clear." 52 Pa. Code § 3.6(b)(1). "The basis for determining whether a

petitioner has met this standard [a clear right to emergency relief] is whether the petitioner has raised 'substantial legal questions.'" *Core Communications, Inc. v. Verizon Pa., Inc. and Verizon North LLC*, Docket No. P-2011-2253650 (Order entered September 23, 2011). It is not necessary that the petitioner demonstrate that they will ultimately be successful on the merits of the proceeding. *Id.* Throughout in the instant matter, there is no dispute that the crossing should be formally abolished. Rather, the Petitioners and Wabash disagree that the condition of the bridge warrants removal. Wabash has presented no credible evidence that leaving the bridge could in any way eliminate the immediate and grave danger that it poses to the public. The Petitioners' right to relief is clear because both the City and the Department have serious concerns about the safety of the traffic travelling under the bridge and are charged with the duty to protect the public in carrying out matters under their respective jurisdictions. The substantial legal question is whether the highway-rail crossing poses an immediate danger to the public.

The Petitioners are ready, willing, and able to address the safety concerns immediately by removal of the bridge during this summer's construction season. Petitioners presented credible and unrefuted expert engineering testimony during the June 3, 2024 emergency hearing demonstrating that the need for relief is immediate and the injury would be irreparable if the relief is not granted because continued deterioration of the bridge would require the closure of State Route 51 and any impact to the bridge by a vehicle on this highly-travelled route would likely be disastrous. The relief requested is not injurious to the public interest and, in fact, only serves to protect the public from a preventable catastrophic bridge failure.

Both the Department and City have a significant interest in the bridge. The City, as the owner of the bridge, has clear authority through its Home Rule Powers and police powers to demolish a City-owned structure. *See Home Rule Charter and Optional Plans Law, 53 Pa.C.S. §§*

2901 *et seq.*; see also *Estate of J. Blose v. Borough of Punxsutawney*, 889 A.2d 653, 659 (Pa. Cmwlth. 2005) (borough's demolition of a dangerous building was a valid exercise of its police powers). The City determined that the subject bridge is unsafe, should be closed, and eventually demolished. Of course, this is subject to the PUC's review when a highway-rail crossing is involved.

Additionally, the Department has the exclusive authority and jurisdiction over all state designated highways. 71 P.S. §§ 512(a)(8), (10), and (11). Because the bridge crosses SR 51 and poses a significant danger to the travelling public, the Department is cooperating with the City to mitigate concerns caused by the structurally deficient bridge that is at the end of its useful life. The Department's involvement has been limited to working with the City to facilitate the expeditious removal of the bridge. To that end, the Department and City have entered into a Local Sponsor Agreement in which the Department has awarded, completed the design of, and let the construction contract to remove the bridge. The proposed date of removal is between July 24 and August 12, 2024 in an effort to complete the work prior to winter and avoid significant traffic delays within the City and neighboring municipalities due to major events occurring shortly after the project.

2. The need for relief is immediate and the injury would be irreparable if said relief is not granted pursuant to the Emergency Petition.

The second and third requirements for obtaining interim emergency relief is a demonstration by the petitioner that its need for relief is immediate and that injury would be irreparable if relief is not granted. 52 Pa. Code §§ 3.6(b)(2) and (3). The Petitioners have met this burden by the substantial evidence submitted during the June 3, 2024 emergency hearing.

Testimony submitted by the Petitioners unequivocally demonstrated that the subject bridge is in a significantly deteriorated condition and presents safety concerns to the traveling public. As evidenced by Mr. Zang's testimony, as a Professional Engineer for 26 years and as the District

reached the end of its useful life and cannot remain in place without closure of State Route 51 within the reasonably foreseeable future. Ideally, removal of the bridge would have been programmed, designed, and completed years ago—especially, since the bridge has been on the Department’s radar over the past few years given its position as one of the most deteriorated bridges within the three county District 11-0.

Wabash argues that the bridge can be repaired rather than removed, but fails to address crucial considerations for any bridge repair and rehabilitation project, such as the longevity of repairs relative to both the upfront and maintenance costs, as well as the impact of the work on the overall transportation network. Critically, this bridge was designed and built in 1929 for a rail line. Today’s use for vehicles and truck deliveries, as well as a parking facility, is entirely different and today’s design standards, methods, and materials are vastly different than they were in 1929. Even if it was economical and justified to rehabilitate the bridge, it is clear that significant maintenance would be required moving forward. Such repairs and maintenance would not be justified given the remaining life span of the bridge and the fact that the bridge does not serve the general travelling public. Even assuming that any reasonable transportation agency intended to keep the connection in place as a benefit to the overall highway network, such agency would likely program, design, and construct a replacement project as opposed to a repair or rehabilitation project because it would be safer and more economical.

Wabash admits that delivery trucks travelled over the bridge daily, prior to its closing; as such, it is clear that the bridge cannot be safely opened without significant delays given the scope of rehabilitation needed. As demonstrated by testimony from Mr. Zang, Wabash’s repair plan is grossly inadequate because such plans are short term repairs despite the need for an extensive rehabilitation plan to keep the current structure in place. [REDACTED]

[REDACTED]

[REDACTED] The cost of removal, storage, and replacement of the earth fill alone makes rehabilitation of this bridge not feasible. Even if steel repairs alone could extend the life of the bridge, continued intense inspection and maintenance would be required due to the age of the structure, and condition of the concrete deck. The proposed repairs would be a very short-term fix and would be an irresponsible use of taxpayer money, and would create multiple and repetitive disruptions to the use and free-flow of traffic on State Route 51 below, which carries approximately 40,000 vehicles per day, for piece-meal and repetitive repair work. The removal plans prepared by the Petitioners are the only viable way to immediately address the threat to public safety caused by the condition of the bridge. The danger is immediate and without such relief the Petitioners' interest, and indeed the PUC's interest—the protection of the traveling public—would be irreparably harmed.

3. The Emergency Petition is in the Public Interest.

The fourth requirement for obtaining interim emergency relief is a demonstration by a petitioner that the relief requested would not be injurious to the public interest. 52 Pa. Code § 3.6(b)(4). In the present matter, the two countervailing interests are the Petitioners' statutory mandates to provide safe and efficient transportation infrastructure compared to the private

business interests of the adjacent property owner: Wabash. The evidence presented demonstrates that the emergency relief sought by the Petitioners would not be injurious to the public interest—in fact, quite the opposite: the entire point of the within Application and Petitions is to ensure the protection the public interest.

Wabash claims that they are subject to a greater injury if the subject bridge is demolished. This argument defies the record in the present matter. Their argument, as to this claim, is that Wabash has developed its own bridge repair plans which it claims are more efficient than the Petitioners' removal plans. Such plans are entirely irrelevant in this proceeding as local and state governments are owed significant deference in administrative decisions, absent proof that said decision lacked good faith, was arbitrary, or otherwise done in a capricious manner. *See Schenck v. Pittsburgh*, 70 A.2d 612, 614 (Pa. 1950) (absent any indication that an administrative decision not in good faith or was wholly arbitrary is not subject to judicial review). The Pennsylvania Supreme Court has held that the judiciary does not have the power to substitute its judgment for that of the Secretary of Transportation, nor to correct mistaken judgments. *See Washington Park, Inc. Appeal*, 229 A.2d 1, 5 (Pa. 1967) (“Furthermore, it is presumed that the highway department's officials have performed their duties in good faith; the burden upon the appellant to prove the contrary, that the officials acted in a capricious, or fraudulent manner, or that their actions were based upon private motives inconsistent with the public welfare, is a heavy one.”). While such case law is not binding to the PUC, it is clear that the Department and City are presumed to have performed their functions, in their engineering judgment to close and remove the subject bridge, in the interest of the public welfare, that their decisions have been reached by the exercise of intelligent judgment; and have been reached in a legal manner after suitable investigation. As such, the Petitioners ask the PUC to limit the inquiry into whether the subject bridge presents a public

safety concern and to adopt the position of the Petitioners who have demonstrated sound engineering judgment in determining to remove the subject bridge—absent sufficient proof that such decisions were made arbitrarily or in a capricious manner they should be upheld by the PUC through the emergency petition process.

As discussed *supra*, said plans are wholly inadequate to address the condition of the bridge, nor would any reasonable transportation agency effectuate repairs which amount to a band aid on a bullet wound. The proposed repair plans are temporary in nature and do not represent a comprehensive rehabilitation of the bridge. The proposed steel repairs are insufficient in scope given the extent of the current deterioration. The dirt fill and concrete deck would need to be removed to mitigate the threat of loose and falling concrete, and this would likely uncover additional losses to steel cross sections, which are not visible at this time. In order to fully develop a comprehensive rehabilitation plans, additional plans and studies would need to be done. In the present matter, time is a grave concern given the condition of the subject bridge. The Petitioners are ready to proceeding immediately to remove a very significant threat to the safety of a major arterial highway carrying approximately 40,000 vehicles per day and connecting to other major highways in the Pittsburgh area—namely, Interstate 376 and the Liberty Boulevard and Tunnel.

As to the question of the public interest, it is clear that Wabash's private interest is vastly outweighed by the protection of the public set forth in the Petitioner's request for relief and as demonstrated by the submission of evidence during the emergency hearing. As discussed above, the subject bridge has reached the end of its useful life and can no longer carry a live load. The NBIS Report and testimony of District Executive, Jason Zang, P.E. point out the concerns raised by the Petitioners. No concern can be greater that the protection of public safety—that is the primary issue raised by the Petitioners which they seek to alleviate by removal of the bridge.

c. Wabash has an adequate remedy at law to compensate its alleged economic injury by removal of the bridge and crossing.

Furthermore, while not a factor expressly presented in the PUC's regulations, it is important to note that Wabash has an adequate remedy on the basis of an allegation under Section 502(c) of the Eminent Domain Code. 26 Pa.C.S. § 502(c). Recovery would be dependent on the real property interest held by Wabash regarding its alleged rights over the subject bridge. In fact, the question of whether a condemnor has unreasonably interfered with a property owner's right to access has been well litigated within the Commonwealth.

In *Thomas A. McElwee & Son, Inc. v. SEPTA*, 948 A.2d 762 (Pa. 2008), the Pennsylvania Supreme Court affirmed the decision of the trial court holding that interference caused by SEPTA's construction resulted in a *de facto* taking of the landowner's property. The landowner claimed that SEPTA's adjacent construction activities, over a three-year period, interfered with business deliveries to his printing business and resulted in a significant decline in business revenue and eventual closure. The Supreme Court emphasized the prolonged duration of the interference as well as the absence of reasonable efforts on the part of the governmental authority to minimize the interference in reaching the conclusion that the interference was unreasonable based on the totality of circumstances.¹

In *Sienkiewicz v. Com., Dept. of Transp.*, 842 A.2d 973 (Pa. Cmwlth. 2004), the Commonwealth Court considered whether the Department's actions in connection with an

¹ It must be noted that the Department, specifically, does not take a position whether or not Wabash has a sufficient property interest in the subject bridge to meet its burden of demonstrating a *de facto* taking nor is it averred in the present matter that the City has acted arbitrary or in a capricious manner. Quite the contrary, in fact.

However, what remains overt, is that Wabash has an adequate remedy at law to address its allegations that removal of the bridge would cause it harm.

interstate highway exit ramp reconfiguration constituted a *de facto* taking of property. In *Sienkiewicz*, the landowner operated a convenience store and gas station business that was forced to close as a result of a continuing decline in sales. The court affirmed the landowner's petition seeking the appointment of a board of viewers alleging a *de facto* taking pursuant to the Eminent Domain Code. The Department's project altered the flow of traffic and also altered various access points to the landowner's business. The Court held that a landowner does not have a property right to a specific flow of traffic and thus a reconfiguration or diversion of traffic patterns cannot constitute a *de facto* taking. However, the Court held that the landowner was nevertheless entitled to the appointment of a board of viewers because there was a permanent interference in the use and enjoyment of his property as a direct result of the narrowing of an abutting street and the installation of 8-inch curbing combined with the narrowing of openings that prevented large trucks and similar vehicles from having reasonable and safe access to the property.

Additionally, Wabash has raised contractual claims against the City. While the City disputes the validity of such claims, it is clear that the PUC may issue a final adjudication in the highway-rail crossing proceeding while preserving the rights of the various parties to seek enforcement of such contractual obligations in the appropriate forum. *See CONRAIL v. Harrisburg*, 842 A.2d 369, 377 (Pa. 2004) ("substantial reasons support the view that Section 2704 does not divest the common pleas courts of jurisdiction to enforce private agreements, where the Commission has issued its decision without prejudice to such proceedings"). As occurred in *CONRAIL*, the PUC has jurisdiction to determine the abolishment of the highway-rail crossing and the Commonwealth Court or Court of Common Pleas retains jurisdiction over Wabash's contractual claims, in addition to any potential claims under the Eminent Domain Code, 26 Pa.C.S. §§ 101 *et seq.*, which jurisdiction is exclusively reserved by the Common Pleas courts.

Litigation regarding compensation can wait for another day in the appropriate forum and time. However, the present moment is the appropriate time to move forward with the Petitioners' plans to demolish the subject bridge, which has reached the end of its useful life and presents a danger to the public. The real and significant concerns regarding public safety cannot wait. As such, it is respectfully requested that the Office of Administrative Law Judge issue an Order granting the Petitioners' requested relief and certifying the issue for review by the PUC.

III. Conclusion

The interim emergency hearing was limited to the issue of whether the condition of the bridge constitutes an emergency necessitating its immediate removal within the meaning of the Public Utility Code and its corresponding regulations. Petitioners have met their burden and presented more than substantial evidence showing that the current condition of the bridge poses an immediate danger to the public and that the established plan to remove the bridge eliminates the immediate danger and protects the safety of the travelling public. As such, the Petitioners respectfully request that the PUC grant their Petition for Special Relief and issue an Order which: 1) finds that there is an immediate danger to the safety and welfare of the public due to the condition of the bridge; 2) order that the crossing is abolished; 3) order the bridge be immediately removed in accordance with the Applicants'/Petitioners' existing plans; and 4) schedule a hearing for any unresolved issues.

Respectfully submitted,

CITY OF PITTSBURGH

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

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DATED: June 4, 2024

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the within *Joint*

Memorandum in Support of Emergency Relief upon the participants listed below on:

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Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

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DATED: June 4, 2024

PENNSYLVANIA PUBLIC UTILITY COMMISSION

In 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. :

A-2024-3048837

Electronically Filed

ORDER GRANTED INTERIM EMERGENCY RELIEF

AND NOW, this _____ day of _____, 2024, it is ORDERED, ADJUDGED, AND DECREED that the **Petition for Interim Emergency Order Under 52 Pa. Code § 3.6**, and the **Petition for Special Relief under 66 Pa.C.S. § 2702(f)**, both jointly submitted and filed by the Commonwealth of Pennsylvania, Department of Transportation, and the City of Pittsburgh are hereby GRANTED.

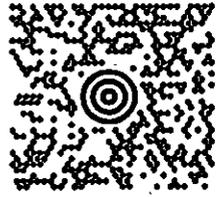
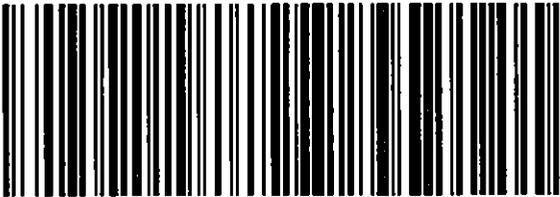
The Office of Administrative Law Judge hereby certifies the within question to the full Commissioners of the Public Utility Commission that the Petitioners, Commonwealth of Pennsylvania, Department of Transportation, and the City of Pittsburgh are hereby granted emergency and special relief to alter the subject crossing, by removal and demolition of the highway-rail crossing bridge carrying a roadway and parking lot over State Route 0051 in the City of Pittsburgh, Allegheny County as in the interest of public safety as such bridge structure presents an immediate danger to safety as referenced in Section 2702(f) of the Public Utility Code. 66 Pa.C.S. § 2702(f). The crossing is additionally abolished.

Furthermore, a hearing shall be held at a later date to determine any remaining issues within the Commission's jurisdiction.

Honorable Mary D. Long, ALJ
Office of Administrative Law Judge

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