

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Complaint Docket No. 17793

EAST WHITELAND TOWNSHIP

v.

THE PENNSYLVANIA RAILROAD COMPANY, DEPARTMENT OF
HIGHWAYS OF THE COMMONWEALTH OF PENNSYLVANIA and
CHESTER COUNTY

ORDER

BY THE COMMISSION, APRIL 20, 1964:

This matter comes before us upon petition of The Pennsylvania Railroad Company (PRR) for reconsideration and modification of our order of January 27, 1964, herein, providing in part as follows:

"4. That The Pennsylvania Railroad Company at its own cost and expense, furnish all material and do all work required to post a highway clearance sign at each entrance to the underpass setting forth in large letters above the highway the actual vertical clearance and, in addition, furnish bridge or building inspectors during the time work is being done at the crossing.

"10. That, upon completion of the improvement and its opening to public use, The Pennsylvania Railroad Company, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its facilities and the highway clearance signs."

We are concerned here with a grade-separation structure where the highway passes under tracks of PRR. PRR contends that:

"5. Petitioner takes exception to the aforementioned provisions of the Commission's order, insofar as they relate to clearance signs, for the following reasons:

"(a) In petitioner's experience, the vertical clearances under a railroad bridge are subject to periodic change as a result of highway resurfacing or other highway work with respect to which petitioner has no control or notice; and the Commission's order would impose on the Railroad the responsibility of keeping informed of all such changes. This responsibility would not only be virtually impossible of compliance but would also unreasonably subject the Railroad to possible liability for accidents arising out of changes in clearances of which the Railroad was unaware.

"(b) Paragraphs 4 and 10 represent a departure from the customary and logical requirement that clearance signs - which are solely for the benefit of a limited class of highway users - be erected and maintained by the local authorities or by the authority having jurisdiction over the highway. The requirements of paragraphs 4 and 10 are wholly beyond the scope of the present complaint and are not supported by any evidence presented at the hearing.

"(c) The obligations imposed by paragraphs 4 and 10 would unreasonable increase the expenses of the Railroad"

Department of Highways (Department) has filed answer denying the above-quoted averments of petitioner.

The maintenance of adequate vertical clearance in a grade-separation structure is a vital matter affecting both overhead and underpass traffic, and the maintenance of a sign or notice, clearly indicating the clearance, is an important function.

The petition and answer clearly raise questions of law and fact that warrant further inquiry, and we shall accordingly schedule further hearing; THEREFORE,

IT IS ORDERED: That further hearing in this proceeding be scheduled for the purpose of developing further inquiry into the matters hereinabove indicated and thereafter reviewing our order of January 27, 1964.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

(signed) Joseph Sharfsin

Chairman

ATTEST:

Secretary

PENNSYLVANIA PUBLIC UTILITY COMMISSION

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v.

THE PENNSYLVANIA RAILROAD COMPANY,
DEPARTMENT OF HIGHWAYS OF THE
COMMONWEALTH OF PENNSYLVANIA and
CHESTER COUNTY

O R D E R

BY THE COMMISSION, FEBRUARY 1, 1965:

This matter is before us upon petition of The Pennsylvania Railroad Company, dated February 10, 1964, which seeks reconsideration and modification of the Commission's order issued January 27, 1964, in this proceeding.

That order provides for the removal of a pedestrian walkway and the widening of a one-lane roadway within an underpass in order to provide a wider highway at the crossing where State Highway Route A-1023 (Traffic Route 352) crosses below the grade of five tracks of The Pennsylvania Railroad Company in East Whiteland Township, Chester County.

In the instant petition, The Pennsylvania Railroad Company objects to paragraphs 4 and 10 of the Commission's order of January 27, 1964, directing the railroad to erect and maintain a highway clearance sign at the crossing involved in this proceeding. On April 20, 1964, the Commission granted the petition for rehearing and reconsideration and a further hearing was held July 30, 1964.

At the further hearing a professional engineer witness for the railroad stated, among other things, that the company has no personnel competent to measure properly highway clearances at underpasses, no sign shop nor erection crews to place and maintain signs; that there are approximately 1,000 highway underpasses in the State of Pennsylvania and an undetermined number of these have substandard clearances; that City of Philadelphia presumably assumes the responsibility of clearances of the railroad bridges, because its publication shows the existence of 500 bridges and their clearances within the city; that one below grade bridge

near Phoenixville had a highway crown 12 to 15 inches higher than the curb lines as a result of continual resurfacing of the highway.

On cross-examination, the witness admitted that the railroad maintains vertical clearance signs in the States of New Jersey and New York, where directed by law.

Respondent railroad company's Exhibit No. 1 lists 20 below grade bridges, 13 in the Ardmore-Greentree area and 7 in the City of Philadelphia, on which signs, mostly with 6-inch letters, were erected by the township, the state or the City of Philadelphia.

Department of Highways contends that the Commission's order is just and reasonable and clearly within its power to make. The department avers that the carrier has shown no abuse of discretion or power by the Commission that would require modification of the order.

The department's witness stated that, upon completion of the improvement, the highway will be about 6 inches lower at the critical point, and that the department requests an extension of time to complete the plan ordered by the Commission in its order of January 27, 1964.

Upon full consideration of the matters and things involved, we find and determine that our order of January 27, 1964 is just and reasonable and that the railroad has offered no new facts or matters which would warrant its modification. However, Department of Highways' request for an extension of time to complete the plans will be granted; THEREFORE,

IT IS ORDERED:

1. That the prayer of the petition of The Pennsylvania Railroad Company, dated February 10, 1964, be and is hereby denied, and that the request of Department of Highways for an extension of time to produce plans for a highway improvement, is granted.

2. That numbered paragraph 2 on page 4 of our order dated January 27, 1964, which reads as follows, to wit:

"That Department of Highways, within 90 days from date of receipt of this order, submit to this Commission for its approval and to parties of record for examination, a detailed construction plan of the highway through and approaching the crossing below the grade of tracks of The Pennsylvania Railroad Company; said plan to provide for removal of the pedestrian walkway through the underpass, alteration, or relocation of the drainage system if necessary, widening and rehabilitation of the roadway within the underpass, installation of concrete curbs within the underpass and traffic lights each side of the bridge with push button control to be activated by pedestrians utilizing the crossing."

be and is hereby modified to read as follows:

That Department of Highways, within 90 days from date of receipt of this modified order, submit to this Commission for its approval and to parties of record for examination a detailed construction plan of the highway through and approaching the crossing below the grade of tracks of The Pennsylvania Railroad Company; said plan to provide for removal of the pedestrian walkway through the underpass, alteration, or relocation of the drainage system if necessary, widening and rehabilitation of the roadway within the underpass, installation of concrete curbs within the underpass and traffic lights each end of the bridge with push button control to be activated by pedestrians utilizing the crossing.

3. That in all respects not inconsistent herewith, our order of January 27, 1964, in this proceeding shall remain in full force and effect.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

(signed) Joseph Sharfsin

Chairman

ATTEST:

Secretary

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