

DEPARTMENT OF TRANSPORTATION
Harrisburg, Pennsylvania 17120
Office of Chief Counsel



July 15, 1980 JUL 21 9 31 AM '80

IN REPLY REFER TO

RECEIVED
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

William P. Thierfelder, Secretary
Pennsylvania Public Utility Commission
North Office Building
Harrisburg, Pennsylvania 17120

Re: Application Docket No. A-00098061
Philadelphia County

Dear Mr. Thierfelder:

Enclosed for filing with the Commission are the original and two (2) copies of Answer of Pennsylvania Department of Transportation to Petition of City of Philadelphia for Modification/Recission/Rehearing, in the above-captioned matter.

I hereby certify that a copy of said Answer has been sent to all parties of record.

Very truly yours,

Herbert G. Zahn
Assistant Attorney General
(717) 787-5931

220/HGZ:rmm
Enclosures

cc: K. W. Walker, P.E. (Attn.: M. Davis)
District #6-0
Parties of Record - Pages 2 & 3

DOCUMENT

PARTIES OF RECORD

W. Preston Granbery, Esquire
Bell Telephone Company of Pennsylvania
One Parkway, 16th Floor
Philadelphia, Pennsylvania 19102

Rudolph Chiliemi, Esquire
Philadelphia Electric Company
2301 Market Street
Philadelphia, Pennsylvania 19101

Robert Szwajkos, Esquire
Penn Central Transportation Company
1138 Six Penn Center Plaza
Philadelphia, Pennsylvania 19104

Joel E. Mazor, Esquire
Consolidated Rail Corporation
1138 Six Penn Center Plaza
Philadelphia, Pennsylvania 19104

E. F. Gilhooly, Esquire
Gulf Oil Corporation
1 Presidential Boulevard
Bala Cynwyd, Pennsylvania 19004

Judith B. Soken, Esquire
Southeastern Pennsylvania Transportation Authority
2028 PSFS Building
Philadelphia, Pennsylvania 19107

Stephen Schachman, Esquire
Philadelphia Gas Works
Packard Building, 14th Floor
Philadelphia, Pennsylvania 19102

Herbert Smolen, Esquire
Unit Chief, Public Utilities
City of Philadelphia
15th Floor, Municipal Services Building
Philadelphia, Pennsylvania 19107

Stephen Dittman, Esquire
Penn Central Trustees
IVB Building, 20th Floor
1700 Market Street
Philadelphia, Pennsylvania 19103

PARTIES OF RECORD

W. Scott Armentrout, Esquire
National Railroad Passenger Corporation
Northeast Corridor Operations
Suburban Station Building - 5th Floor
1617 J. F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103

Paul R. Hitchcock, Esquire
The Baltimore and Ohio Railroad Company
Terminal Building
P. O. Box 6419
Cleveland, Ohio 44101

and made a part hereof.

5. Admitted.

6. Denied. Although Elmwood Avenue is a state highway, designated as Legislative Route 67308, the Commonwealth has no responsibility to maintain the structure except the base or surface courses. This is in accordance with the Act of September 18, 1961, P.L. 1389, Art. II, Section 203 (36 P.S. 1758-203), which states:

"This act is not intended and shall not be construed:

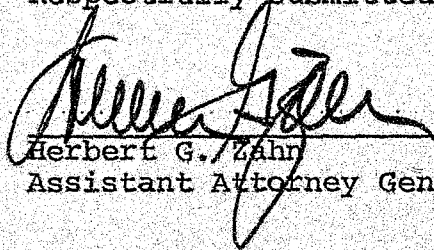
(1) * * *

(2) To place upon the Commonwealth any obligation for the maintenance, construction, reconstruction or resurfacing of said streets other than the base or surface courses."

In further answer hereto, it is respectfully submitted that your Honorable Commission has the exclusive jurisdiction to allocate maintenance responsibilities to any of the parties to these proceedings and that it was correct and proper to order the City of Philadelphia to maintain the substructure and superstructure of the subject bridge since this proceeding was undertaken by the City in connection with the construction of the Airport High Speed Line.

WHEREFORE, the Pennsylvania Department of Transportation respectfully requests that the Petition of the City of Philadelphia be denied in all respects except the correction to state that Elmwood Avenue is a state designated highway, being L.R. 67308.

Respectfully submitted,



Herbert G. Zahr

Assistant Attorney General

ORIGINAL
The Gulf Companies

LAW DEPARTMENT

JUL 25 11 21 AM '80

Edward F. Gilhooly
ATTORNEY

P. O. Box 8056
Philadelphia, PA 19101

SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

July 22, 1980

William P. Thierfelder, Secretary
Pennsylvania Public Utility Commission
North Office Building
Harrisburg, PA 17120

Re: Application Docket No. A-00098061

Dear Mr. Thierfelder:

In reference to subject Application, I would appreciate it if you would substitute Malcolm C. Pfautz, Esquire in place of my name as Gulf Oil Corporation's counsel of record in this matter.

Thank you for your assistance.

Very truly yours,

Edward F. Gilhooly
Edward F. Gilhooly

EFG/kgk

cc: All Counsel of Record

DOCKETED
JUL 29 1980

DOCUMENT
FORM

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17120
SEPTEMBER 4, 1980

MONITOR: COMMISSIONER CAWLEY

In re: A-00098061

(See attached list)

Application of City of Philadelphia for approval of (1) the construction, alteration or reconstruction of the crossings of Penn Central Transportation Company, debtor, Reading Company, debtor, The Baltimore and Ohio Railroad Company and SEPTA involved in the construction of a high-speed passenger line from Suburban Station to the Philadelphia International Airport, in the City of Philadelphia, (2) the allocation of the costs and expenses incident thereto and (3) exemption from the minimum overhead and side clearance requirements of Part III of the Commission's Railroad Regulations.

NOTICE

The Commission's order of July 17, 1980 in the above referenced proceeding directed that hearing be held to take evidence on the issues raised in the Petition for Modification/Rescission/Rehearing filed by the City of Philadelphia July 3, 1980.

Accordingly, this further hearing will be held Wednesday, October 8, 1980, at 11:00 a.m., in Room 1306, Philadelphia State Office Building, Broad and Spring Garden Streets, Philadelphia, Pennsylvania.

Administrative Law Judge Rudolph S. Pallastrone will be the presiding officer at this hearing. Judge Pallastrone's telephone number is (215) 238-3735. His address is Room 1302, Philadelphia State Office Building, Broad and Spring Garden Streets, Philadelphia, Pennsylvania 19130.

As a reminder, please be advised that three copies of all hearing exhibits to be presented into evidence must be submitted to the Reporter and an additional copy should be furnished to the presiding officer and each party of record.

Sincerely,

William Shane, Chief
Administrative Law Judge

**DOCUMENT
FOLDER**

cc: Judge Pallastrone, Law Bureau, Bureau of Rail Transportation
Mr. Bramson, Ms. Long, Ms. Lawrence, File Room

P.S. Judge Pallastrone: This hearing is assigned to you under the
Examiner System. You will not be expected to write a decision.

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SEP 5 1980

[Handwritten signature]

Herbert Smolen, Deputy City Solicitor
City of Philadelphia
1540 Municipal Services Building
15th and John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19107

Richard P. Randall, Attorney
The Gulf Companies
Law Department
P.O. Box 8056
Philadelphia, Pennsylvania 19101

Steven Schachman, Esquire
Obermayer, Rebmann, Maxwell & Hippel
14th Floor, Packard Building
Philadelphia, Pennsylvania 19102

Rudolph A. Chillemi, Esquire
Philadelphia Electric Company
2301 Market Street
Philadelphia, Pennsylvania 19101

D. S. Kauffman, District Manager
Arco Pipe Line Company
P.O. Box 2086
Sinking Springs, Pennsylvania 19608

Texas Eastern Transmission Corp.
c/o C. T. Corporation
123 South Broad Street
Philadelphia, Pennsylvania 19109

Robert Szwajkos, Attorney
The Penn Central Corporation
3100 IVB Building
1700 Market Street
Philadelphia, Pennsylvania 19103

Sally J. Kircher, Attorney
Chessie System - Law Department
Terminal Tower
P.O. Box 6419
Cleveland, Ohio 44104

Richard Herskovitz, Asst. Counsel
Pa. P.U.C. - Law Bureau
P.O. Box 3265
Harrisburg, PA 17120

Joel E. Mazor, Commerce Counsel
Consolidated Rail Corporation
1138 Six Penn Center Plaza
Philadelphia, Pennsylvania 19104

Edward H. Huss, Staff Counsel
Southeastern Pennsylvania
Transportation Authority
2028 PSFS Building
12 South 12th Street
Philadelphia, Pennsylvania 19107

W. Scott Armentraut, Assistant
General Counsel
National Railroad Passenger Corp.
1617 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103

Howard M. Tugel, Division
Plant Superintendent
American Telephone and Telegraph Company
60 West Avenue
Wayne, Pennsylvania 19087

I. I. Kamar, Division Manager
Mobil Pipe Line Company
P.O. Box 989
Plainfield, N. J. 07061

Thomas P. Shearer, Esquire
711 Frick Building
Pittsburgh, Pennsylvania 15219

Lockwood W. Fogg, Secretary
Trustees of Reading Company
One Plymouth Meeting Mall
Plymouth Meeting, Pennsylvania 19462

Ward T. Williams, Deputy
Attorney General
Pa. Dept. of Transportation
521 Transportation & Safety Bldg.
Harrisburg, PA 17120

Raymond F. Scully, Vice President
and General Counsel
The Bell Telephone Co. of Pa.
One Parkway
Philadelphia, PA 19102



CITY OF PHILADELPHIA

LAW DEPARTMENT
15th Floor, Municipal Services Building
Philadelphia, Pa. 19107

ALAN J. DAVIS
City Solicitor

(215) MU-6-5281

ORIGINAL

DOCUMENT
FOLDER

Oct 1
~~September 30~~, 1980

SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION
OCT 2 10 27 AM '80

Pennsylvania Public Utility Commission
North Office Building
Harrisburg, Pa.

Attn: Secretary

Re: Application of City of Philadelphia A98061
Application of City of Philadelphia A99374

Dear Sir:

I enclose herewith original and 14 copies of the Petition of the City for Extension of Time for Completion of Portion of Project in the above consolidated matters.

Kindly acknowledge receipt of same.

Very truly yours,

Herbert Smolen
Deputy City Solicitor
(215) MU-6-5281

HS/es

Enclosures

Application of the City of Philadelphia for approval of (1) A.98061 the construction, alteration or reconstruction of the crossings of Penn Central Transportation Company, Debtor, Reading Company, Debtor, the Baltimore and Ohio Railroad Company and SEPTA involved in the construction of a high speed passenger line from Suburban Station to the Philadelphia International Airport, in the City of Philadelphia, (2) the allocation of the costs and expenses incident thereto and (3) exemptions from the minimum overhead and side clearance requirements of Part III of the Commission's Railroad Regulations.

Application of the City of Philadelphia for approval of (1) A.99374 the alteration of the crossing by the reconstruction of the bridge carrying 58th Street over and above the grade of the tracks of Penn Central Transportation Company in the City of Philadelphia, (2) an exemption from the minimum overhead and side clearance requirements of Part III of the Commission's Railroad Regulations and (3) the allocation of the costs and expenses incident thereto.

PETITION FOR EXTENSION OF TIME FOR
COMPLETION OF PORTION OF PROJECT

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

1. Petitioner, herein is the City of Philadelphia, the applicant in the above captioned matters.
2. By Order adopted February 8, 1978 and entered February 16, 1978, the Honorable Pennsylvania Public Utility Commission approved the application at A.99374, pertaining to the alteration and/or reconstruction of the major portions of the existing 58th Street bridge crossing, above the grade of tracks of National Railroad Passenger Corporation (designated as Construction Stage A) and also approved that portion of the application at A.98061, pertaining to the construction of a new crossing at the same general location, above the grade of tracks of the Airport High Speed Line

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(designated as Construction Stage B). Paragraph 22 of said Order (page 26 thereof) provided as follows:

"22. That all work of constructing the crossing improvement project be completed in a manner satisfactory to this Commission on or before December 31, 1980; and that on or before said date, each party hereto report to the Commission the date of actual completion of its respective portions of the work; and at the earliest practicable time subsequent to said date of completion, submit to this Commission a detailed statement of the actual costs incurred by it in furnishing material and in performing work on each of the respective portions of the project (Stage A and/or Stage B), in compliance with this order."

3. By reason of circumstances beyond the control of Petitioner, namely: an appeal by the National Railroad Passenger Corporation to the Commonwealth Court of Pennsylvania; extended settlement negotiations in connection therewith; delay in implementation thereof; extensive time required in obtaining necessary approvals from various interested and effected parties, the commencement of construction was delayed until August 1980. Assuming no construction oriented delays, it is anticipated that construction will be completed on or before July 24, 1982.

4. By reason of the aforesaid occurrences, and the attendant delay in commencement of construction, as aforesaid, Petitioner hereby requests an extension of time within which to complete the improvement, from on or before December 31, 1980 as set forth in Paragraph 22 of the Order of the Commission, above cited, to on or before July 24, 1982.

5. The Urban Mass Transportation Administration has also concurred in the contract anticipated completion date of July 24, 1982.

WHEREFORE, Petitioner respectfully requests your Honorable Commission

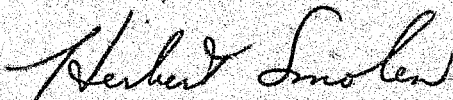
to extend the time for completion to July 24, 1982.

Respectfully submitted,

Alan J. Davis
City Solicitor

Andre Dasent
Deputy City Solicitor

Herbert Smolen
Deputy City Solicitor

By: 
Herbert Smolen

Attorneys for City of Philadelphia

A F F I D A V I T

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF PHILADELPHIA : SS.

Nicholas Bubernak, being duly sworn according to law, deposes and says that he is the Acting Project Manager of the Airport High Speed Line of the City of Philadelphia; that he is authorized to, and does make this affidavit on its behalf; and that the facts set forth in the foregoing Petition are true and correct to the best of his knowledge, information and belief.

Nicholas Bubernak

Nicholas Bubernak
Acting Project Manager

SWORN TO AND SUBSCRIBED

before me this 24th day
of September, 1980.

Joan R. Roach
NOTARY PUBLIC

JOAN R. ROACH
NOTARY PUBLIC, PHILA., PHILA. CO.
My Commission Expires Nov. 1, 1980

CERTIFICATE OF SERVICE

I hereby certify that on the ^{1st} ~~30th~~ day of ^{October} ~~September~~ 1980, a true and correct copy of the foregoing Petition was served upon the following named parties, by first class mail, postage prepaid.

HERBERT G. ZAHN, ESQ.
Washington West Building
N.E. Corner 8th & Locust Streets
Philadelphia, Pennsylvania 19106

Representing Penn Dot

PRESTON GRANBERY, ESQ.
One Parkway, 16th Floor
Philadelphia, Pennsylvania 19102

Representing Bell Telephone

RUDOLPH CHILIEMI, ESQ.
2301 Market Street
Philadelphia, Pennsylvania 19101

Representing Philadelphia Electric

JOEL E. MAZOR, ESQ.
1138 Six Penn Center
Philadelphia, Pennsylvania 19102

Representing Conrail

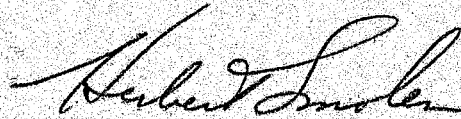
JUDITH B. SOKEN, ESQ.
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Philadelphia, Pennsylvania 19107

Representing SEPTA

STEPHEN SCHACHMAN, ESQ.
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Philadelphia, Pennsylvania 19102

Representing Philadelphia Gas Works

W. SCOTT ARMENTROUT, ESQ.
National Railroad Passenger Corporation
400 North Capitol Street, NW
Washington, D.C. 20001



HERBERT SMOLEN
Deputy City Solicitor