

August 10, 1978

SUBJECT: B-78072526  
A. 98061

TO: Secretary McElwee

FROM: Betty R. Jones

In re: Petition of National Railroad Passenger Corporation  
No. 1608 C. D. 1978  
Commonwealth Court of Pennsylvania

It is the intention of the Law Bureau to certify the record in the above captioned case to the Commonwealth Court of Pennsylvania. Please forward a complete set of the original file for certification. We will assume the Secretary's office has a complete second file.

BRJ



# Southeastern Pennsylvania Transportation Authority

## Board

### Chairman

John W. MacMurray

### Vice Chairman

Hillel S. Levinson, Esq.

G. Roger Bowers, Esq.

Frank W. Jenkins, Esq.

Edmund Jones, Esq.

James C. McConnon, Esq.

Joseph L. Pyle, Jr.

Lawrence R. Stoltz

Robert J. Thompson

Joseph Tracy

Hon. James B. Wilson

### General Manager

William R. Eaton

### Chief Counsel

Lewis H. Van Dusen, Jr., Esq.

## Executive Office

2028 PSFS Building • 12 South 12th Street  
Philadelphia, Pa. 19107  
(215) 574-7300

August 22, 1978

**RECEIVED**

AUG 25 1978

Mr. C. J. McElwee, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, Pennsylvania 17120

SECRETARY'S OFFICE  
Public Utility Commission

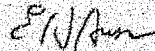
Re: A. 98061 - Application of the City  
of Philadelphia

A. 99374 - Application of the City  
of Philadelphia

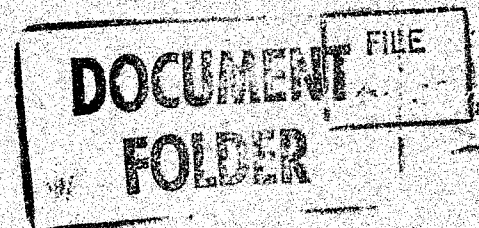
Dear Mr. McElwee:

This will acknowledge receipt of your  
letter dated August 10, 1978, enclosing copies of  
an Order issued by the Commission on July 27, 1978,  
regarding the above entitled proceedings.

Yours very truly,

  
Edward H. Huss  
Staff Counsel

EHH/sg  
Encs.



November 17, 1978

A. 98061

Application of the 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) exemptions from the minimum overhead and side clearance requirements of Part III of the Commission's Railroad Regulations.

Petition of the City of Philadelphia praying for modification of the Commission's order of July 13, 1976.

Herbert Smolen, Deputy  
Solicitor  
City of Philadelphia  
15th Floor, Municipal Services  
Building  
Philadelphia, Pennsylvania 19107

Dear Sir:

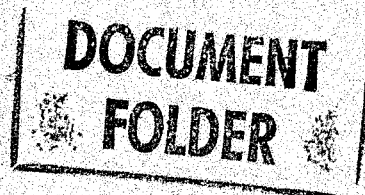
Receipt is acknowledged of your letter of November 16, 1978, together with the original and three copies of the petition of the City of Philadelphia praying for modification of the Commission's order of July 13, 1976, issued in the above entitled proceeding, so as to provide for an extension of time from December 31, 1978 to October 31, 1979, within which to complete the work required to be performed.

We note that copies of said petition have been forwarded to all other parties in interest.

The matter will receive the attention of the Commission, together with any Answer that may be filed, and you will be advised of its action.

Very truly yours,

for C. J. McELWEE  
Secretary



CKG:mpk



# CITY OF PHILADELPHIA

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

SHELDON L. ALBERT  
City Solicitor

**RECEIVED**

November 16, 1978

NOV 16 1978

SECRETARY'S OFFICE  
Public Utility Commission

Pennsylvania Public Utility Commission  
P. O. Box 3265  
North Office Building  
Harrisburg, PA 17120

Attention: Secretary

Re: Application of the City of Philadelphia  
Docket No. 98061

Dear Sir:

Enclosed herewith for filing, please find original and four (4) copies of the Petition of the City of Philadelphia for Extension of Time for Completion of Portion of Project.

Please note that copies of the foregoing Petition are being served upon all known parties of record.

Very truly yours,

HERBERT SMOLEN  
Deputy City Solicitor

HS:bn

enclosures

**DOCUMENT  
FOLDER**

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

Application of the City of  
Philadelphia

Application Docket No. 98061

PETITION FOR EXTENSION OF TIME  
FOR COMPLETION OF PORTION OF  
PROJECT

LAW DEPARTMENT  
CITY OF PHILADELPHIA  
HERBERT SMOLEN  
DEPUTY CITY SOLICITOR  
SHELDON L. ALBERT  
CITY SOLICITOR

15TH FLOOR, MUNICIPAL SERVICES BUILDING  
PHILADELPHIA, PA. 19107

RECEIVED

NOV 16 1978

SECRETARY'S OFFICE  
Public Utility Commission

Application of the City of Philadelphia : APPLICATION DOCKET  
 for approval of (1) the construction, :  
 alteration or reconstruction of the : NO. 98061 ✓  
 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. :

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 matter.
2. By Order adopted July 13, 1976 and entered July 22, 1976, the Honorable Pennsylvania Public Utility Commission approved the Application in the above matter and in Paragraph 18 of said Order (page 22 of 26) the Order provided:

DOCKETED  
 APPLICATION DOCKET  
 NOV 20 1978  
 ENTRY No. 111

DOCUMENT  
 FOLDER

18. That the construction of the proposed railroad-highway crossing improvement project be fully completed, in a manner satisfactory to the Commission, on or before December 31, 1978, and that on or before said date, City of Philadelphia Pennsylvania Department of Transportation, Trustees of Reading Company, Consolidated Rail Corporation and Philadelphia Electric Company, respectively, report to this Commission the date of actual completion of its portion of the project; and at the actual cost incurred by it in furnishing material and in doing work in compliance with this Order."

3. By reason of circumstances beyond the control of Petitioner, namely, extended negotiations among ARCO Pipe Line Company, Mobil Pipe Line Company and Philadelphia Electric Company concerning the relocation of ARCO and Mobil facilities from existing locations to new locations on the property of Philadelphia Electric

Company, the aforesaid pipe line facilities and a certain Philadelphia Electric Company line were not relocated and have remained in place; thereby delaying completion of that portion of the viaduct structure between Airport High Speed Line Station 426 to 430 + 50 as shown on City Exhibit 4 Sheet R - 6.

Further, additional delay was occasioned by reason of lengthy and extended negotiations between Petitioner and Consolidated Rail Corporation in connection with a lease Agreement between the parties.

4. By reason of the aforesaid occurrences, and the attendant delay in construction of that portion of the viaduct structure, as aforesaid, Petitioner hereby requests an extension of time within which to complete the improvement, from on or before December 31, 1978 as set forth in Paragraph 18 of the Order of the Commission, above quoted, to on or before October 31, 1979.

5. The Urban Mass Transportation Administration has been advised of the foregoing circumstances and has also concurred in the requested extension to October 31, 1979.

WHEREFORE, Petitioner respectfully requests your Honorable Commission to extend the time for completion to October 31, 1979, and such other relief as the Commission may deem appropriate, consistent with the foregoing Petition.

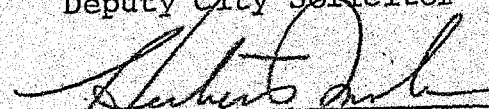
Respectively submitted:

SHELDON L. ALBERT  
City Solicitor

STEPHEN ARINSON  
Chief Deputy City Solicitor

RAYMOND KITTY  
Deputy in Charge of Litigation

HERBERT SMOLEN  
Deputy City Solicitor



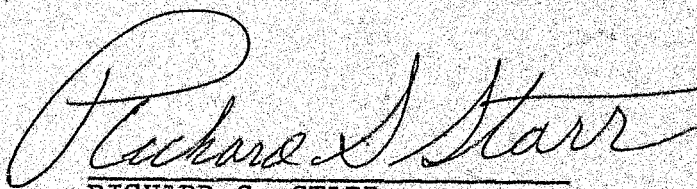
HERBERT SMOLEN  
Deputy City Solicitor

Attorney for City of Philadelphia

A F F I D A V I T

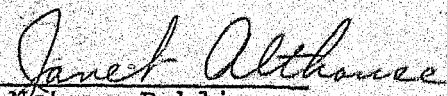
COMMONWEALTH OF PENNSYLVANIA :  
COUNTY OF PHILADELPHIA : SS.

RICHARD S. STARR, being duly sworn according to law, deposes and says that he is the 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.

  
RICHARD S. STARR  
Project Manager

SWORN TO AND SUBSCRIBED

before me this 14 day  
of November, 1978.

  
Notary Public  
JANET ALTHOUSE  
NOTARY PUBLIC, PHILA., PHILA. CO.  
My Commission Expires Feb. 5, 1981

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Harrisburg, Pennsylvania 17120  
Office of Chief Counsel



December 1, 1978

IN REPLY REFER TO

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C. J. McElwee, Secretary  
Pennsylvania Public Utility Commission  
North Office Building  
Harrisburg, Pennsylvania 17120

SECRETARY'S OFFICE  
Public Utility Commission

Re: City of Philadelphia  
Application Docket No. 98061

Dear Mr. McElwee:

The Department of Transportation has no objection to the Petition of the City of Philadelphia for Extension of Time for Completion of Portion of Project, filed in the above-captioned matter.

Very truly yours,

Herbert G. Zahn  
Assistant Attorney General

220/HGZ:rmm

cc: K. W. Walker, P.E., Chief Utility Engineer  
District #6-0

DOCUMENT  
FOLDER



CITY OF PHILADELPHIA

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

SHELDON L. ALBERT  
City Solicitor

HERBERT SMOLEN  
DEPUTY CITY SOLICITOR  
CITY OF PHILADELPHIA  
SUITE 804  
1401 ARCH STREET  
PHILADELPHIA, PA 19102  
MU 6-8720

NART

December 13, 1978

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Pennsylvania Public Utility Commission  
P. O. Box 3265  
North Office Building  
Harrisburg, PA 17120

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DEC 15 1978  
SECRET  
Public Utility Commission  
Office of the E. L. J.  
Public Utility Commission

Attention: Secretary  
Re: Application of the City  
PUC Docket No. 98061

Dear Sir:

In connection with the above matter, will you kindly schedule a hearing to cover, inter alia, the Elmwood Avenue crossing of the Airport High Speed Line.

Very truly yours,

HERBERT SMOLEN  
Deputy City Solicitor

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FOLDER

HS:bn

cc: Richard Starr, Rm. 1122 CHA

BUREAU OF  
DEC 12 1978  
TRANSPORTATION

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DEC 13 1978  
PUBLIC UTILITY COMMISSION

LET'S GO

December 18, 1978

A. 98061

Application of the 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) exemptions from the minimum overhead and side clearance requirements of Part III of the Commission's Railroad Regulations.

Petition of the City of Philadelphia praying for modification of the Commission's order of July 13, 1976.

Rudolph A. Chillemi, Assistant  
General Counsel  
Philadelphia Electric Company  
2301 Market Street  
P.O. Box 8699  
Philadelphia, Pennsylvania 19101

Dear Sir:

Receipt is acknowledged of your letter of December 14, 1978, together with the original and two copies of the Answer, filed in behalf of Philadelphia Electric Company, to the petition of the City of Philadelphia for modification of the Commission's order of July 13, 1976, issued in the above entitled proceeding.

Receipt is also acknowledged of proof of service of copies of said Answer upon other parties of record.

The matter will receive the attention of the Commission and you will be advised of its action.

Very truly yours,

for C. J. McELWEE  
Secretary

CKG:mpk

DOCUMENT  
FOLDER

PHILADELPHIA ELECTRIC COMPANY

2301 MARKET STREET

P.O. BOX 8699

PHILADELPHIA, PA. 19101

(215) 841-4000

EDWARD G. BAUER, JR.  
VICE PRESIDENT  
AND GENERAL COUNSEL

EUGENE J. BRADLEY  
ASSOCIATE GENERAL COUNSEL

DONALD BLANKEN  
RUDOLPH A. CHILLEMI  
E. C. KIRK HALL  
T. H. MAHER CORNELL  
PAUL AUERBACH  
ASSISTANT GENERAL COUNSEL

EDWARD J. CULLEN, JR.  
JOHN F. KENNEDY, JR.  
ASSISTANT COUNSEL

December 14, 1978

RECEIVED

DEC 18 1978

SECRETARY'S OFFICE  
Public Utility Commission

C. J. Mc Elwee, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17120

Re: Application #98061 of the City of Philadelphia - Airport  
High Speed Line

Dear Mr. McElwee:

Enclosed for filing with the Commission are an original and two copies of Philadelphia Electric Company's Answer to the City of Philadelphia's Petition for Extension of Time for Completion of Portion of Project concerning the above-captioned matter.

I hereby certify that I have served a copy of the Answer on each party of record.

Very truly yours,

*Rudolph A. Chillemi*  
Rudolph A. Chillemi

RAC:mh  
Enclosures

cc: Herbert G. Zahn, Esq.  
Herbert Smolen, Esq.  
Joel E. Mazor, Esq.  
W. Preston Granberry, Esq.  
Judith B. Soken, Esq.  
Stephen Schachman, Esq.

Candace N. Kreiger, Esq.  
W. Scott Armentrout, Esq.

DOCUMENT  
FOLDER

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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DEC 18 1978

SECRETARY'S OFFICE  
Public Utility Commission

APPLICATION DOCKET  
NO. 98061

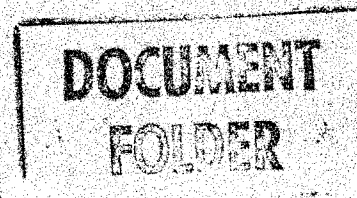
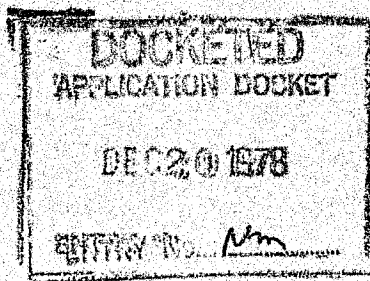
Application of the City of Philadelphia :  
for approval of (1) the construction, :  
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The Baltimore and Ohio Railroad Company :  
and SEPTA involved in the construction :  
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Philadelphia, (2) the 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 Regu- :  
lations. :

ANSWER OF THE PHILADELPHIA ELECTRIC COMPANY

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW COMES, the Philadelphia Electric Company,  
Respondent, and files this Answer to the City of Philadelphia's  
Petition for Extension of Time for Completion of Portion of  
Project, and respectfully represents as follows:

1. Admitted.
2. Admitted.
3. Denied. The Philadelphia Electric Company has not caused any of the delay attributed to it by virtue of the allegation of paragraph 3 of the Petitioner. On the contrary, it is averred that the installation of underground distribution



the proposed viaduct crosses the above right of way was completed on September 1, 1978 immediately after completion of the pipe line relocations. All work required to be done by Philadelphia Electric Company, at this point, was done prior to the allotted time for subject work.

4. Respondent, Philadelphia Electric Company does not have information sufficient to form a belief as to the truth of the averments concerning the cause of the delay in construction of that portion of the viaduct structure involved herein and if pertinent to the position of the Respondent, proof thereof is demanded at the hearing in this case. Further, Philadelphia Electric Company, however, does not oppose the Petitioner's request for an extension of time within which to complete the subject improvement.

5. Respondent, Philadelphia Electric Company is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 5 of the Petitioner and if pertinent to the position of the Respondent, proof thereof is demanded at the hearing in this case.

WHEREFORE, Respondent, Philadelphia Electric Company respectfully requests Your Honorable Commission to render whatever relief as it deems appropriate in this case.

*Rudolph A. Chillemi*

Rudolph A. Chillemi, Esquire  
Attorney for Respondent

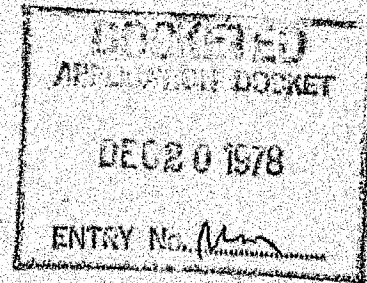
COMMONWEALTH OF PENNSYLVANIA:  
COUNTY OF PHILADELPHIA : SS.

L. F. Hamilton, being duly sworn according to law, deposes and says that he is Engineer in Charge of the Transmission and Distribution Engineering Section of the Philadelphia Electric Company; that he is authorized to and does make this affidavit for it; and that the facts set forth in the Answer are true and correct to the best of his knowledge, information and belief.

*L. F. Hamilton*

L. F. Hamilton

Sworn to and Subscribed  
before me this *14<sup>th</sup>* day  
of *December*, 1978.



*Elizabeth H. Boyer*

Notary Public  
ELIZABETH H. BOYER  
Notary Public, Phila., Phila. Co.  
My Commission Expires Jan. 30, 1982

