

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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A. 98061 City of Philadelphia

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APR 23 1979
ENTRY No. *1000*

Thursday, March 22, 1979

Philadelphia, Pennsylvania

SHORTHAND SERVICE

EVERETT G. RODEBAUGH

COURT REPORTERS

PHILADELPHIA

APPEARANCES (cont):

JOEL E. MAZOR, ESQ.
Commerce Counsel
Consolidated Rail Corporation
1138 Six Penn Center Plaza
Philadelphia, PA 19104

For: Conrail

R.A. CHILLEMI, ESQ.
2301 Market Street
Philadelphia, PA 19101

For: Philadelphia Electric Company

W. SCOTT ARMENTROUT, ESQ.
400 N. Capitol Street
Washington, D.C. 20001

For: Amtrak

GEORGE D. WENICK, ESQ.
Office of Chief Counsel
PennDOT Title Building
Harrisburg, PA 17120

For: PennDOT

EDWARD H. HUSS, ESQ.
2028 PSFS Building
125 South 12th Street
Philadelphia, PA 19107

For: SEPTA

PAUL R. HITCHCOCK, ESQ.
P.O. Box 6419
Cleveland, Ohio 44101

For: The Baltimore & Ohio Railroad

I N D E X

WITNESSES

	<u>D</u>	<u>C</u>
Richard S. Starr		
By Mr. Smolen	6	
By Mr. Mazor		14
By Mr. Hitchcock		15
 Stafford C. Walker		
By Mr. Mazor	16	
 Frank Berdan, Jr.		
By Mr. Huss	18	

ADMINISTRATIVE LAW JUDGE: I think we're ready to proceed.

This meeting before the Public Utility Commission is on Docket No. A. 98061.

The appearance sheet which I have shows Herbert Smolen, Esq., for the City of Philadelphia; R. A. Chillemi, Esq., for Philadelphia Electric Company; Joel E. Mazon, Esq., for Consolidated Rail Corporation; W. Scott Armentrout, Esq., for Amtrak; George D. Wenick, Esq., for PennDOT; Edward H. Huss, Esq., for SEPTA, and Paul R. Hitchcock, Esq., for the Baltimore & Ohio Railroad.

Is there anyone present who hasn't signed the appearance sheet?

Let the record indicate that there was a negative response.

Before we proceed, I'd like to, for the record and for your information, state that I have received a call from Mr. Tyson Caughlin of Ballard, Ingersol & Spar, representing Texas Eastern Transmission Corporation, who advised me that he would not be present here today because he did not think that his company should be involved. I asked him to reduce that to writing and send copies to all

4
of the parties involved.

Any questions in that regard?

MR. SMOLEN: For the City of Philadelphia, if your Honor please, our testimony at this hearing will be limited to the Elmwood Avenue crossing of the airport highspeed line.

We've had many hearings on the various other crossings of the speedline, and in addition, subsequent to this hearing, we are requesting the scheduling of other hearings, additional hearings for other crossings of the airport highspeed line, but just so the record is clear, today's testimony will deal solely with the Elmwood Avenue crossing and although Amtrak, the National Railroad Passenger Corporation, may not have a current interest in this particular crossing, I understand they have an interest in some of the other crossings, and counsel for Amtrak has requested me, if I can interrupt my presentation and make a statement for the record, I have no objection if your Honor has no objection.

ADMINISTRATIVE LAW JUDGE: No objection.

MR. ARMENTROUT: I'm counsel for Amtrak, and our interest in these proceedings

excludes this Elmwood Avenue crossing, which is the subject of this hearing.

We've had, and will continue to have, discussions with the City over the other crossings that will be involved in the future hearings, and we concur with Mr. Smolen's request at this hearing that an additional hearing or additional hearings as may be necessary be scheduled, and we're prepared to participate in those.

If there's no objection, I would like, on behalf of Amtrak, to be excused from this hearing today.

ADMINISTRATIVE LAW JUDGE: All right. That's fine.

Have you gentlemen agreed on any date on which you'd like to have this hearing scheduled?

MR. ARMENTROUT: Well, we met with representatives of the City yesterday, and we are looking at a timeframe of around a month to six weeks to try to resolve some of the issues that we hope can be resolved amicably between ourselves and the City, so I would think --

ADMINISTRATIVE LAW JUDGE: Any

time after one month, between one month and six weeks, you would prefer to have the hearing scheduled?

MR. SMOLEN: And we request that it would be scheduled.

ADMINISTRATIVE LAW JUDGE: I'll make that request to the scheduling staff.

Now, Mr. Armentrout, you may be excused.

(Mr. Armentrout left the hearing room.)

MR. SMOLEN: If your Honor please, I would like to call as our witness Mr. Starr.

ADMINISTRATIVE LAW JUDGE: Mr. Starr, will you please stand and raise your right hand.

RICHARD S. STARR, having been first duly sworn, was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE: Would you please state your full name.

THE WITNESS: Richard S. Starr.

DIRECT EXAMINATION

BY MR. SMOLEN:

Q. By whom are you employed?

A. Department of Public Property for the City of Philadelphia.

Q. Would you please state your business address.

A. Room 1122, City Hall Annex.

Q. Have you testified before the Public Utility Commission in this and other proceedings?

A. Yes, I have.

Q. Are you a registered Professional Engineer in the State of Pennsylvania --

A. Yes.

Q. -- familiar with this application?

A. Yes.

Q. Are you authorized to appear and testify on behalf of the City?

A. Yes.

Q. Would you please describe the subject matter of this hearing.

A. The City's testimony will concern itself with the installation of new track and roadbed on the 60th Street Freight Branch Rail Line beneath Elmwood Avenue, and protective parapets on Elmwood Avenue Bridge.

MR. SMOLEN: If your Honor please,

I'd like to have marked for identification as City Exhibit No. 32 a multi-page set of construction drawings containing six sheets.

I have three copies for the Stenographer, and we have a set for all the other interested parties.

ADMINISTRATIVE LAW JUDGE: They will be so marked.

(Six Sheets of Construction Drawings were marked for identification as City Exhibit No. 32.)

MR. SMOLEN: I'd like to have marked for identification as City Exhibit No. 33 a one-sheet exhibit entitled "Estimated Cost of Construction at Elmwood Avenue."

I have three sets for the Stenographer and one for all the interested parties.

ADMINISTRATIVE LAW JUDGE: They will be so marked.

(One-Page Sheet entitled "Estimated Cost of Construction at Elmwood Avenue," was marked for identification as City Exhibit No. 33.)

BY MR. SMOLEN:

Q. Mr. Starr, do you have Exhibit No. 32 before

you?

A. Yes, I do.

Q. Would you please describe it.

A. City Exhibit No. 32 is a set of drawings showing grading, drainage, track and roadbed construction, protective parapets, and gabion wall construction on the 60th Street Freight Branch Rail Line beneath Elmwood Avenue.

Q. Please describe the scope and extent of the construction on the 60th Street Freight Branch beneath Elmwood Avenue.

A. The construction on the 60th Street Freight Branch at Elmwood Avenue will include the placement of 140 linear feet of single track, at grade section, underneath the existing westerly span of the structure carrying Elmwood Avenue across the tracks of the 60th Street Freight Branch. Additionally, the work includes the construction of track bed as well as the removal of an existing stone wingwall, the construction of a gabion wingwall and the construction of protective parapets. These parapets are above the track level.

Q. Do the vertical and horizontal clearances conform with the previous order of the Public Utility Commission in this case?

A. Yes, they do.

All vertical and horizontal clearances conform with the exemption granted by the Commission in the order adopted July 24, 1974, and entered July 30, 1974.

Q. Would you please describe the track and roadbed construction.

A. The track and roadbed construction will include new subgrade drainage ditches, sub-ballast six inches in depth, ballast fifteen inches minimum in depth, wooden ties, steel tie plates, and one pair of continuously welded rail tracks.

Q. Is there any rail traffic now on the 60th Street Bridge?

A. No, there is not, except I understand Conrail may occasionally use this for exceptionally wide or high loads. I don't know if there's been any traffic on there recently.

Q. Will your proposed construction affect the highway structure itself or the vehicular traffic thereon?

A. No, it will not.

Q. Will you please turn to what has been marked as Exhibit No. 33.

Was this prepared by you or under your direction and control?

A. Yes.

Q. Will you please describe it.

A. Exhibit 33 is the estimated cost of construction of the aforementioned work at Elmwood Avenue crossing, and includes estimates for the grading and drainage and track work and structure, including the gabion wall and a protective parapet.

Q. What does that Exhibit 33 show as the total estimated cost?

A. \$63,699.

Q. With respect to the allocation of the cost, what is the City's position?

A. The City's position is that under our urban mass transit grant, the Urban Mass Transit Administration will pay 80 percent of the cost of this work, the Pennsylvania Department of Transportation, as part of that same grant, will pay sixteen and two-thirds percent, and the City of Philadelphia will pay the remaining three and one-third percent.

Q. How were those percentages established?

A. They were established under a Capital Assistance Grant from the U.S. Department of Transportation,

Urban Mass Transportation Administration.

Q. Is that Capital Assistance Grant an exhibit in this proceeding?

A. Exhibit No. 25 in a previous hearing for this project.

Q. In this docket number?

A. Yes.

Q. Now are there any public utilities to be relocated?

A. No, there are not.

Q. What is your estimated time for construction at Elmwood Avenue?

A. The actual physical construction of the Elmwood Avenue crossing will take at least two months to do, physically, but it is part of an overall contract or contracts 35 and 17, which will take approximately three years to complete the whole portion of that project. I'd say the work here at Elmwood Avenue will only take two months to do.

Q. When is the 60th Street and Elmwood Avenue portion estimated to start?

A. Approximately September 1, 1979.

Q. Is the Commission being requested to appropriate any property?

A. No.

Q. By reason of the construction, will any street-car lines be affected?

A. No.

Q. Are any highways to be vacated?

A. No.

Q. Are any highways to be laid out?

A. No.

Q. Will any detours be required?

A. No.

Q. Who will be responsible for the maintenance of the completed work set forth in your exhibits?

A. The City of Philadelphia.

Q. And what is the City requesting at this time?

A. The City is requesting the Commission to issue a prompt order:

1) authorizing construction in accordance with the plans previously introduced.

2) allocating construction costs in accordance with my previous testimony, namely:

Urban Mass Transportation Administration: 80 percent;

Pennsylvania Department of Transportation: 16 and two-thirds percent;

City of Philadelphia: 3 and one-third percent.

Q. Are those percentages in accordance with the Capital Assistance Grant which you mentioned, which is Exhibit 25 in this case?

A. Yes.

Q. Is the City requesting any other items?

A. The City is also requesting that the Commission hold further hearings on other airport highspeed line crossings at our request.

Q. As I previously requested, within a month to six weeks?

A. Yes.

MR. SMOLEN: The witness is submitted for cross-examination.

MR. CHILLEMI: No questions to ask.

MR. MAZOR: Thank you.

CROSS-EXAMINATION

BY MR. MAZOR:

Q. With respect to the right-of-way upon which this portion of the highspeed line is going to be constructed, at present legal title is in the name of Conrail Corporation; is that right?

A. Yes, the bed of the 60th Street Freight Line.

Q. Now the Conrail Corporation and the City, however, have entered into a formal agreement, have they not, executed on February 28, 1979, which agreement has been submitted to the Commission for its approval, by which that right-of-way will be transferred from Conrail to the City; is that correct?

A. That's correct.

MR. MAZOR: That's all I have.

MR. WENICK: No questions.

MR. HUSS: No questions.

CROSS-EXAMINATION

BY MR. HITCHCOCK:

Q. Mr. Starr, is the Baltimore & Ohio Railroad involved in any way whatsoever at the Elmwood Avenue crossing?

A. No.

MR. HITCHCOCK: That's all.

MR. SMOLEN: I move for the admission of Exhibits 32 and 33.

ADMINISTRATIVE LAW JUDGE: I don't hear any objection, so the exhibits are admitted.

MR. SMOLEN: I have no further

witnesses.

MR. CHILLEMI: Your Honor, in view of the fact that the Philadelphia Electric Company facility will not be affected by the proposed work and no crossing is sought to be imposed upon it, we do not oppose the City's application.

ADMINISTRATIVE LAW JUDGE: Mr. Mazor, do you have any witnesses?

MR. MAZOR: Yes, Mr. Walker.

STAFFORD C. WALKER, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MAZOR:

Q. Would you please state your full name.

A. Stafford C. Walker.

Q. And your address.

A. 16th Floor, 1528 Walnut Street, Philadelphia 19102.

Q. Are you the Stafford C. Walker who has previously testified in other hearings concerning this application?

A. Yes, sir.

Q. And you are still authorized to testify on behalf of Conrail in this proceeding?

A. Yes, sir.

Q. Now with respect to the 60th Street Bridge about which Mr. Starr testified, running beneath the Elmwood Avenue Bridge, who is the present owner of that line of railroad?

A. The Conrail Corporation is the present owner, observing the fact that there is an agreement with the City to transfer ownership to the City. However, that agreement is still in the process and has not been finally approved.

Q. Does Conrail operate any trains beneath the Elmwood Avenue Bridge?

A. No, sir.

Q. To the best of your knowledge, has it since it acquired the property on April 1, 1976, operated any trains?

A. No.

Q. Does Conrail have any objection to the proposed improvement?

A. No, sir.

MR. MAZOR: Thank you.

The witness is available for

cross-examination.

MR. SMOLEN: No questions.

MR. CHILLEMI: No questions.

MR. WENICK: No questions.

MR. HUSS: No questions.

MR. HITCHCOCK: No questions.

MR. MAZOR: Thank you, sir.

That's all we have.

ADMINISTRATIVE LAW JUDGE: Mr. Wenick, do you have any witnesses to present?

MR. WENICK: No, we haven't.

ADMINISTRATIVE LAW JUDGE: Mr. Huss?

MR. HUSS: Mr. Berdan.

FRANK BERDAN, JR., having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HUSS:

Q. Would you state and spell your full name.

A. Frank Berdan, B-e-r-d-a-n, Jr.

Q. Will you state your business address.

A. Room 2028, PSFS Building, 12 South 12th Street,

Philadelphia 19107.

Q. By whom are you employed?

A. By the Southeastern Pennsylvania Transportation Authority, SEPTA.

Q. Is SEPTA a party of interest in this proceeding?

A. Yes.

Q. Have you testified before the Public Utility Commission in the past as SEPTA's representative?

A. Yes, I have.

Q. Are you authorized to testify on behalf of SEPTA in this proceeding?

A. I am.

Q. Does SEPTA object to the construction of the proposed improvement, and does it have any constructive criticism to offer?

A. None whatsoever, except to state that the protective barriers located on the side abutment of the 60th Street overpass will be located almost immediately under SEPTA's 600 volt D.C. distribution line, and adequate protection of those active and hot lines should be considered in the construction contract for whoever may be authorized to carry out this portion of the work.

Q. What portion of any of the proposed

construction will it perform?

A. SEPTA proposes to do nothing.

Q. What part of the construction cost and damage costs will you pay?

A. None.

MR. HUSS: That's all I have.

The witness is available for cross-examination.

ADMINISTRATIVE LAW JUDGE: Will there be any cross-examination of this witness?

Let the record indicate that there is no cross-examination of the witness, and the witness may be excused.

Thank you.

Mr. Hitchcock, do you have any witnesses?

MR. HITCHCOCK: We have no testimony to present.

ADMINISTRATIVE LAW JUDGE: Will there be any further witnesses presented?

Would counsel like to make a statement at this time for the record?

MR. SMOLEN: If your Honor please, just to renew my previous request that additional hearings on the speedline crossings be scheduled

within a month to six weeks, as we've already discussed.

ADMINISTRATIVE LAW JUDGE: I will so advise the scheduling staff.

MR. SMOLEN: Thank you.

I might request also that we would request an expeditious order from the Commission in this particular matter.

ADMINISTRATIVE LAW JUDGE: We'll put an expedite on this matter for you, Mr. Smolen.

Thank you very much, gentlemen, and we'll adjourn for today and the hearing will be continued.

(The hearing was adjourned at 10:35 o'clock a.m.)

I HEREBY CERTIFY that the proceedings and evidence taken herein are contained fully and accurately in the notes taken by me at the hearing in the above cause before the Public Utility Commission of the Commonwealth of Pennsylvania and that this copy is a true and correct transcript of the same.

Reported by:

Susanne Houghland

Susanne Houghland
(Certified Shorthand Reporter
& Notary Public)

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>IDENT.</u>	<u>EVID.</u>
City of Philadelphia Exhibits			
✓ 32	Six Sheets of Construction Drawings.	8	15
33	One-Page Sheet entitled "Estimated Cost of Construction at Elmwood Avenue."	8	15

ESTIMATED COST OF CONSTRUCTION AT ELMWOOD AVENUE

Description of Construction:

The Airport High Speed Line improvements at Elmwood Avenue will consist of construction of one hundred forty (140) linear feet of single track, at grade section, underneath the existing westerly span of the structure carrying Elmwood Avenue across the abandoned tracks at 60th Street. Additionally, the work includes the construction of trackbed drainage, electrification and signalization, as well as the removal of an existing stone wingwall and the construction of a gabion wall to maintain a minimum horizontal clearance of 8'0".

Estimated Cost:

The following is an itemized cost for the work described above between A.H.S.L. Stations 222+10 and 223+50:

Grading & Drainage:

Roadbed Excavation	125 C.Y.	@ 6.50 =	\$ 815.00
Embankment	300 C.Y.	@ 6.00 =	1,800.00
Remove Exist. Wingwall	L.S.		<u>3,070.00</u>
TOTAL			\$ 5,685.00

Trackwork:

Ballast	160 C.Y.	@ 18.90 =	\$ 3,024.00
Sub-ballast	70 C.Y.	@ 16.30 =	1,141.00
Tracks CWR	140 L.F.	@ 76.00 =	<u>10,640.00</u>
TOTAL			\$ 14,805.00

Structures:

Gabion Wall	80 C.Y.	@ 50.00 =	\$ 4,000.00
Protective Parapets	206 L.F.	@ 150.00 =	<u>30,900.00</u>

SUM OF ABOVE ITEMS = \$ 55,390.00
 JS ESCALATION (15%) = 8,309.00

TOTAL COST \$ 63,699.00

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 APPLICATION DOCKET
 APR 23 1979
 ENTRY No. 42

PA. PUBLIC UTILITY COMMISSION	
Docket No. <u>A-98061</u>	Folder No. _____
Hearing at <u>Phila.</u>	Exhibit No. <u>33</u>
Reporter <u>S. Houghtland</u>	Date <u>3/22/79</u>

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