

Uniform Cover and Calendar  
(List attachments on back)

1. <u>DOCKET NO.</u>	: A.98061/A.99374	: 2. <u>BUREAU AGENDA NO.</u>
3. <u>REPORT DATE:</u>	: February 8, 1978	: FEB-78-T-183*
4. <u>BUREAU:</u>	: Trans.	: 5. <u>PUBLIC MEETING DATE:</u>
6. <u>SECTION(S):</u>	: Railroad	: February 8, 1978
7. <u>APPROVED BY:</u>	: Peteritas	:
<u>DIRECTOR</u>	:	:
<u>SECN SUPV(S)</u>	:	:
8. <u>MONITOR:</u>	: Carter/O'Bannon	:
9. <u>PERSON IN CHARGE:</u>	: Storch	:
10. <u>CAPTION (abbreviated)</u> Application of City of Philadelphia (A. 98061) to extend and construct a portion of 58th Street bridge, where tracks of the new Airport High Speed Line will be placed; and Application of City of Philadelphia (A. 99374) to reconstruct the major portions of the existing 58th Street bridge above the tracks of National Railroad Passenger Corporation.		
11. <u>PUBLIC RECORD</u>	:	:
<u>INVESTIGATION</u>	:	:
<u>INTERNAL ADVICE</u>	:	:12. <u>CASE NO.</u>
13. <u>MINUTE (include short summary of facts, issue and recommendation)</u> The Staff recommended that the Commission enter an order approving the Applications of the City of Philadelphia, at A. 98061 and A. 99374, for the alteration and reconstruction of the existing 58th Street bridge above tracks of National Railroad Passenger Corporation and the proposed Airport High Speed Line; approving the plans prepared for the project; directing construction in accordance therewith; and allocating the costs of construction and future maintenance of the improvement.		
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14. <u>MOTION BY:</u>	Commissioner O'Bannon	Commissioner Chm. Carter - Yes Commissioner Bloom - Abstained
<u>SECONDED:</u>	Commissioner Johnson	Commissioner
<u>CONTENT OF MOTION:</u> Staff recommendation adopted.		
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 2px solid black; padding: 5px; text-align: center;"> <p><b>DOCUMENT</b></p> <p><b>FILED</b></p> </div> <div style="border: 2px solid black; padding: 5px; text-align: center;"> <p><b>DOCKETED</b></p> <p><b>APPLICATION DOCKET</b></p> <p><b>FEB 27 1978</b></p> <p>ENTRY No. <i>BW</i></p> </div> </div>		
15. <u>DISSENTING OPINION(S) BY:</u>		
<u>CONCURRING OPINION(S) BY:</u>		

EEB 10 1078  
16

Mr. Herbert Smolen  
Deputy City Solicitor  
City of Philadelphia  
15th Floor, Municipal Services Building  
Philadelphia, PA 19107

Application Docket No. 99374 - Application of the City of Philadelphia

Application Docket No. 98061 - Application of the City of Philadelphia

Dear Sir:

Enclosed, herewith, are executed orders and plans issued by the Commission on February 8, 1978, in the above entitled proceedings.

Kindly acknowledge receipt and service in behalf thereof, using for that purpose the enclosed forms.

Very truly yours,

C. J. McElwes  
Secretary

jwb  
Encls.  
Cert. Mail  
Receipt Req.

DOCUMENT  
FOLDER

DUPLICATE RECORD.  
ORIGINAL CERTIFIED  
TO COMMONWEALTH COURT.

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

Public Meeting held February 8, 1978  
Harrisburg, PA 17120

Commissioners Present:

Louis J. Carter, Chairman  
Robert K. Bloom - Abstained  
Helen B. O'Bannon  
Michael Johnson

Application Docket No. 99374 - Application of the City of Philadelphia for approval of (1) 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.

Application Docket No. 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.

Herbert Smolen, for City of Philadelphia  
Herbert G. Zahn, for Department of Transportation  
W. Preston Granbury, for Bell Telephone Company of Pennsylvania  
Rudolph Chlieml, for Philadelphia Electric Company  
Joel E. Mazor, for Consolidated Rail Corporation  
Judith B. Soken, for Southeastern Pennsylvania Transportation Authority  
Steven Schachman, for Philadelphia Gas Works  
W. Scott Armentrout, for National Railroad Passenger Corporation  
Stephen Dittman, for Trustees of Penn Central Transportation Company

ORDER

BY THE COMMISSION:

By this Commission's order at Application Docket No. 99374, issued February 26, 1976, we approved sub-part (2) of the application of City of Philadelphia, and granted certain exemptions from the minimum overhead and side clearance requirements of Part III of the Commission's

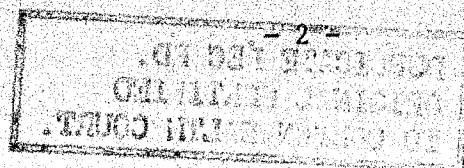
DUPLICATE RECORD.  
ORIGINAL CERTIFIED  
TO COMMONWEALTH COURT.

Railroad Regulations, as more specifically set forth and stipulated in said order, for purposes of revising the design plans for a replacement structure for the existing 58th Street bridge over the tracks of the former Penn Central Transportation Company (now National Railroad Passenger Corporation and/or Consolidated Rail Corporation), in City of Philadelphia. Further, that order directed that the proceeding docketed at A. 99374 be consolidated for hearing with Application Docket No. 98061, which pertains to the proposed construction of a new high-speed rail commuter line from Suburban Station to the Philadelphia International Airport, the tracks of which will also pass beneath the 58th Street bridge. The purpose of consolidation lies in the fact that a portion of the subject structure will require reconstruction as a result of the high-speed line (docketed at A. 98061, with federal participation in the funding thereof), while the remaining portions of the subject reconstruction will be performed under application docket A. 99374 and a different mode of funding.

Following completion of the reconstruction plans and related documents, consolidated hearings were held, on March 23, 1977 and on May 18, 1977. Testimony was presented by City of Philadelphia, Pennsylvania Department of Transportation, National Railroad Passenger Corporation, Philadelphia Electric Company, The Bell Telephone Company of Pennsylvania, Southeastern Pennsylvania Transportation Authority (SEPTA) and Philadelphia Gas Works; and exhibits submitted for the record by the city, the telephone company and SEPTA.

At the hearing held March 23, 1977, L. Neiman, Chief Bridge Engineer for City of Philadelphia, described the proposed improvement project. In 1866, City of Philadelphia had dedicated 58th Street as a public roadway, with a 70-foot right-of-way, including a 40-foot wide roadway and two 15-foot wide sidewalks. In 1892, The Pennsylvania Railroad Company constructed the original bridge carrying 58th Street above its tracks, with a roadway width of 36 feet 2 inches between curbs. Various modifications have been made to the structure over the years, and the present configuration consists of five spans of differing lengths, with an overall total bridge length of about 146 feet. Four main operating tracks exist beneath the central span of the structure, and one side track passes beneath the span south of the main tracks.

Due to the proposed construction of the planned Airport High Speed Passenger Commuter Line (AHSL), to be built between Suburban Station in Center city and the Philadelphia International Airport, two new tracks will be placed parallel to the existing tracks, on the northerly side thereof, necessitating reconstruction of the two northerly spans of the existing bridge. These two spans, with a total combined length of about 39 feet, and their supporting elements, are proposed to be replaced with a new single span of approximately 66-foot length, and a new reinforced concrete abutment, to span the AHSL tracks. This portion of the project was included as a part of the total overall changes to be effected to numerous rail-highway crossings considered under Application Docket No. 98061, filed with this Commission by City of Philadelphia on July 5, 1973.



Changes in the design changes and alterations to the 58th Street bridge, to accommodate the new AHSL span, led to the conclusion that upgrading of the remaining portions of the existing bridge (presently posted for 15 tons maximum load limit) would be highly desirable, and that the interests of the public would be served by complete reconstruction to modern standards, at the same time that work is underway on the AHSL portions. Accordingly, the city filed for reconstruction of the remaining portions, at Application Docket No. 99374, on August 11, 1975. City's Exhibit No. A-1, a one-sheet general plan numbered B-7502-PUC, shows plan and elevation views and cross-sections of both the existing bridge and the proposed replacement structure. It is noted that all portions of the existing bridge will be removed, with the exception of the reinforced concrete south abutment, which will be modified and incorporated into the new construction. The new structure will consist of three spans with a total overall length of about 194 feet, or approximately 48 feet greater length than at present. This increase is due to the required geometry and placement of the proposed AHSL tracks at this location. Certain exemptions from the minimum overhead and side clearance requirements of Part III of the Commission's Railroad Regulations, were approved by our orders at A. 98061, issued July 24, 1974, and at A. 99374, issued February 26, 1976, in connection with the new construction.

Exhibit A-2 consists of 23 sheets of bridge construction drawings, numbered B-7502-1 through -11, and B-7502-S-12 through -S-23, showing details of the proposed replacement structure. Sheets 1 through 11 set forth the particulars for spans 1 and 2, which work is to be covered under Application Docket No. 99374; while sheets S-12 through S-23 cover all aspects pertinent to span 3, which falls under Application Docket No. 98061. These drawings show that the new structure will be of prestressed, precast concrete adjacent box beam construction with composite concrete deck slab. Roadway width will be 40 feet 1 inch between curbs, with a 5 foot 0 inch sidewalk either side thereof. Outside the limit of the easterly sidewalk will be a 10-foot wide utility bay to accommodate large diameter gas and water lines, while six electrical ducts will be provided under each sidewalk. Parapet protective barrier railing will be provided full-length along both sidewalks, and protective fencing along the abutment wingwalls.

In addition to showing all necessary and attendant details of construction, these drawings also include general notes, a list of quantities, approach roadway data, abutment modifications, lighting details, profile grade data and catenary attachment details.

The witness testified, with emphasis, that there are different means of funding for the work to be covered by the two different application dockets. Stage A, at A. 99374, consists of the removal of the entire existing superstructure and three intermediate pier bents, temporary support and subsequent reattachment of the railroad catenary and signal systems, modification of the existing south abutment, construction of one intermediate pier, and erection of the superstructure of the southerly two of the three new spans. Stage B, at A. 98061, will cover removal of

the existing north abutment, construction of a new north abutment and one intermediate pier, and erection of the superstructure of the northerly new span.

Exhibit A-3 consists of a 12-page set of construction drawings, numbered E-7502-1 through -12, showing all details of construction, required materials, and attendant information pertinent to the temporary support system, and reattachment of the railroad electrification catenary and track feeder system, signal transmission wires and insulator attachments. All work covered by these drawings is attendant to Stage A construction, only, and has no bearing upon that work necessitated by the AHSL, under Stage B.

Exhibit A-4 is a single-sheet summary of the city's estimated cost of constructing Stage A, under A. 99374 (exclusive of railroad electrification work), itemized as follows:

58th Street Bridge - Construction Stage A

Mobilization	\$ 50,000
Engineering stakes	12,000
Protection of Amtrak facilities	30,000
Removal of existing structure	80,000
Excavation	10,200
Reinforcing steel	32,200
Prestressed box beams	82,700
Concrete	93,700
Aluminum protective barrier	30,600
Expansion joints	6,600
Bridge approach work	32,200
30-inch diameter water main	84,700
Contingency (10%)	55,100
Subtotal	\$ 760,000
Engineering, borings, etc.	10,600
<b>TOTAL</b>	<b>\$ 660,000</b>

Exhibit A-5 is a single-sheet summary of the city's estimated cost for the necessary temporary and permanent railroad electrification work under Stage A, itemized as follows:

Detailed Cost Estimate for Railroad Electrification  
Facilities - Stage A

Engineering (By Engineering Consultant) and Amtrak  
Work to be Performed By General Contractor

Foundation construction - excavation, concrete and removal	\$ 11,000
Structural steel - material, erection and removal	69,000
Maintenance and protection of rail traffic, for work performed by contractor only	12,000
Contingencies (10%)	8,000
<b>Subtotal</b>	<b>\$ 100,000</b>
<u>Engineering (By Consultant)</u>	
Design phase	67,645
Construction phase	8,661
<b>Total Engineering</b>	<b>\$ 76,306</b>
<b>TOTAL</b>	<b>\$ 176,306</b>

Above costs do not include following work required  
to be performed by Amtrak forces:

- Revisions to catenary and electric traction power feeder circuits - materials only.
- Revisions to catenary and electric traction power feeder circuits - labor and equipment.
- Signal power feeders - material, labor and equipment.
- Electrical grounding system - materials, labor and equipment.
- Maintenance and protection of traffic for work performed by Amtrak line crews.

Exhibit A-6 is a single sheet summary of the city's estimated cost of constructing Stage B, under A. 98601, itemized as follows:

58th Street Bridge - Construction Stage B

Mobilization	\$31,000
Engineering stakes	18,000
Removal of existing structures	55,000
Excavation	117,400
Reinforcing steel	34,400
Prestressed boxed beams	47,000
Concrete	161,600
Aluminum protective barrier	16,200
Expansion joints	6,600
Approach slab	8,300
Bridge approach work	41,000
30-inch diameter water main	73,200
Contingency (10 percent)	65,300
<b>Subtotal</b>	<b>\$675,000</b>
Engineering, borings, etc.	65,000
<b>Total</b>	<b>\$740,000</b>

Exhibit A-7 is a copy of a two-page letter dated January 14, 1928, from J. H. Neeson, then Chief of the Bureau of Highways, Department of Public Works, City of Philadelphia, to W. T. McCouch, Special Agent for The Pennsylvania Railroad Company, by which the city grants permission to the railroad to install or attach their electrification facilities to various overhead bridge structures, including the subject 58th Street Bridge; and which letter contains certain provisions relating to the performance and cost of maintenance, alterations, repairs, et al., of the facilities.

According to the witness, the city attempted to ascertain the present ownership of the 58th Street Bridge, and of the electrification facilities passing beneath the structure. Penn Central Transportation Company advised that its interests had been transferred to Consolidated Rail Corporation (Conrail), and Conrail advised that same had passed to National Railroad Passenger Corporation (Amtrak). Hence, the city advised Amtrak of the forthcoming necessity to temporarily relocate the facilities, and requested the corporation to prepare engineering and construction drawings to that end.

Exhibit A-8 is a copy of a two-page letter dated July 28, 1976, from E. C. Lawson, Chief Engineer, Northeast Corridor, Amtrak, to D. J. Damiano, Commissioner of Streets, City of Philadelphia, received by the city in response to the noted request. The letter advises that it is Amtrak's position that it did assume the railroad facilities at this location, including the electrification facilities, but did not assume nor become successor to Penn Central Transportation Company with regard to the bridge itself or any Penn Central obligations thereat. Further, the letter advised that, in Amtrak's opinion, work and costs attendant to the electrification system should be the responsibility of the highway interests funding the bridge construction project; and that Amtrak has neither staff nor funds to prepare the required engineering drawings.

Accordingly, city of Philadelphia deemed it necessary to have the drawings prepared by its engineering consultant, at a cost of \$76,306 as shown on its Exhibit A-5. The city requests reimbursement of this amount from the owner of the facilities, and suggests that said owners be directed to also bear the costs of the actual construction work, in the estimated amount of \$100,000, as also shown on Exhibit A-5, in accordance with the terms of the 1928 letter-permit. City Exhibit A-7.

The witness testified further that the present average daily traffic at this location is 8,000 vehicles, which it is anticipated will increase to 9,000 vehicles in 1985. Under the subject application proceedings, no highways are to be vacated, no new highways are to be laid out, and no appropriation of property will be required to be made by the Commission. Any required highway traffic detours will be established and maintained by the city during the period of construction, estimated at two years following start of construction; and it is not anticipated that any railroad detour will be necessary. While it will be necessary to coordinate the bridge reconstruction work with the operations of the railroad, the city will not require any railroad flagmen, watchmen or inspectors for any of its work.

Mr. Neiman testified that since the original construction of the 58th Street bridge by The Pennsylvania Railroad Company, in 1892, the railroad has had sole responsibility for, and has actually performed, maintenance of the structure. Likewise, the electrification facilities were installed by the railroad in 1928, at no cost to the city, and the railroad has been solely responsible for the maintenance thereof since that time.

In addition to the above-noted railroad electrification facilities, certain other utility facilities will also require relocation, adjustment and/or alterations, including those of Philadelphia Electric Company, The Bell Telephone Company of Pennsylvania, Philadelphia Gas Works and Southeastern Pennsylvania Transportation Authority. According to the witness, there exist city permits covering relocation costs for The Bell Telephone Company; hence the city does not assume any responsibility for same, insofar as costs may be incurred under Stage A construction. (The City permits are more fully described by the testimony of city witness, Mr. Hahn and City Exhibits A-9 to A-13.) While there are also similar permits covering Philadelphia Electric Company relocation costs, the city is agreeable to pay for adjustments to these electrical facilities at 58th Street, exclusive of betterment and less salvage value, inasmuch as it and the electrical company are negotiating an agreement relative to various right-of-way easements over company properties, necessitated by the subject reconstruction project and at other locations along the AHSL.

The amount of PE Company relocation costs to be borne by the city is subject to the execution of the proposed city-company agreement by all appropriate parties, and approval by the Urban Mass Transit Administration (UMTA), of the U.S. Department of Transportation. Testimony by the city's witness indicates that the city wishes to reserve the right of further hearing upon electrical facilities' relocation costs, in the event the proposed agreement is not executed and approved.

It is the city's opinion that all costs under Stage A construction, pertaining to the bridge reconstruction and the electrification facilities, should be the sole responsibility of, and be borne by, the present owners of these facilities, and that all costs for watchmen, flagmen, inspectors, et al. under Stage A should be paid for by those parties requiring same.

With regard to Stage B construction costs, the witness testified that eligible costs relative to the work necessitated by the AHSL project will be funded 80% by a Federal grant through Urban Mass Transportation Administration (UMTA), with the remaining costs to be assumed 16-2/3% by Pennsylvania Department of Transportation, and 3-1/3% by City of Philadelphia, under the terms of an agreement to that effect. This breakdown of costs, according to the witness, does not apply to relocation costs attendant to facilities of The Bell Telephone Company of Pennsylvania, which the city desires be borne entirely by the telephone company. It is, however, suggested that relocation costs for facilities of Philadelphia Gas Works be reimbursed to the gas company in the noted portions, for both construction Stages A and B, and that costs incurred by Philadelphia

Electric Company be subject to the previously-mentioned city-company agreement as testified to under the Stage A portion of the project. While UMTA has excluded from the approved budget for this project any costs pertaining to utility facility relocations, the city will request UMTA to approve the proposed agreements for reimbursements to Philadelphia Electric Company and Philadelphia Gas Works.

With regard to future maintenance responsibilities, following completion of construction, the city suggests that under Stage A, the new bridge and the electrification facilities be the responsibility of Amtrak and/or Conrail and/or Penn Central to maintain, while the city will agree to maintain the Stage B portion of the new structure. Further, it is suggested that non-carrier utilities should be required to maintain their own existing and/or relocated facilities.

Accordingly, the city requests the Public Utility Commission to determine as follows:

Under Stage A construction, at A. 99374:

1. Approval of construction plans for Stage A.  
2. Bell Telephone Company costs to be borne by Bell Telephone Company.

3. Reimbursement to the city for costs of preparation of railroad electrification drawings, in the amount of \$76,306.

4. Costs of bridge reconstruction, estimated at \$660,000, to be borne by the owner or owners of the existing structure.

5. Costs of railroad electrification work, estimated at \$100,000, to be borne by the owner or owners of these facilities.

6. That work required to be performed to the railroad electrification facilities be performed by the owners thereof.

7. That maintenance of railroad electrification facilities be the responsibility of the owners thereof.

8. That maintenance of the new structure be the responsibility of the owners of the existing bridge.

9. That any costs of watchmen, flagmen, inspectors, et al., be borne by the party requiring same.

10. That maintenance of utility facilities be the responsibility of the respective owner-company thereof.

Under Stage B construction, at A. 98061:

1. Approval of construction plans for Stage B.

2. Bell Telephone Company costs to be borne by Bell Telephone Company.

3. Costs of bridge construction, estimated at \$740,000, to be borne 80% by UMTA; 16-2/3% by PennDOT; 3-1/3% by the city.

4. That maintenance of the new structure be the responsibility of City of Philadelphia.

5. That costs of Philadelphia Electric Company relocations be in accordance with a proposed agreement between the parties, to be filed with the Public Utility Commission when executed, and when approved by UMTA (subject to the further proviso that, in the event it is not executed and approved, further hearings will be had on the issue of PE Company relocation costs).

6. That costs of Philadelphia Gas Works relocations be in accordance with a proposed agreement between the city and the gas company.

7. That any costs of watchmen, flagmen, inspectors, et al., be borne by the party requiring same.

8. That further hearings be had on other AHSL crossings, at A. 98061, as the need develops.

On cross-examination, it was brought out that none of the actual trackwork on the AHSL will be performed or involved under A. 99374, or under the instant portion of A. 98061 pertaining to the reconstruction of the 58th Street Bridge, per se; these proceedings being limited only to the structural changes to the bridge proper.

Questions were also raised, without definitive results, by counsel for Consolidated Rail Corporation as to the acquisition of necessary right-of-way parcels required for the AHSL construction, and to the matter of whether the conditions spelled out in City's Exhibit A-7 are binding upon the successors or assigns of The Pennsylvania Railroad Company.

Also on cross-examination, Mr. Neiman, the witness for the City, acknowledged the existence of an overhead power line owned by SEPTA, above the line of 58th Street, which crosses the Amtrak tracks. This line will also be affected by the proposed construction.

A second witness for City of Philadelphia, J.J. Hahn, Engineering Technician in charge of issuance of all street-use permits, testified with regard to City's Exhibits Nos. A-9 through A-13, admitted for the record at the hearing held March 22, 1977, as follows:

Exhibit A-9 is a 12-page document titled "Application for Permit for Opening and Structural Occupancy of Highways", by The Bell Telephone Company of Pennsylvania, the first page of which is dated May 10, 1935. The application covers various locations, including certain defined areas on 58th Street, and includes a 34-point set of regulations covering such installations.

Exhibit A-10 is a 21-page document, similar to Exhibit A-9, also filed by The Bell Telephone Company of Pennsylvania, dated January 14, 1949, and which covers similar applications for 58th Street, et al.

Exhibit A-11 is a 17-page document, also similar to Exhibit A-9, filed by The Bell Telephone Company of Pennsylvania, dated July 25, 1952, covering additional street occupancy applications, including certain sections on 58th Street.

Exhibit A-12 is a 17-page document, also similar to Exhibit A-9, filed by The Bell Telephone Company of Pennsylvania, dated August 22, 1952.

Exhibit A-13 is a seven-page set of forms in current use by City of Philadelphia, covering applications for permits for highway occupancy, including a 37-point set of regulations covering street openings and excavations.

Mr. Hahn testified in clarification of the procedures followed in applying for occupancy permits, their approvals, issuance, and regulations covering same. According to the witness, Exhibits A-9 through A-13 evidence the acceptance of The Bell Telephone Company of Pennsylvania, through signature of a company official, to the regulations governing the permits issued by the city in each instance, including the proviso that the applicant is responsible for costs of relocation of the subject facility if relocation is occasioned by water or gas main source or any other municipal work.

On cross-examination, Mr. Hahn concurred that the city-issued highway occupancy permits would not be pertinent to any Bell Telephone facilities which may be located on other than city-owned properties (e.g.-beyond the designated city street right-of-way).

All city exhibits, A-1 through A-13, were admitted for the record, over objections by Conrail with respect to Exhibit A-7, and over objections by the telephone company with respect to A-9 through A-13. The specific reasons for objection were stated for the record by counsel for the carrier and the utility company.

M.H. Davis, Assistant Grade Crossing Engineer for Pennsylvania Department of Transportation, testified that any funds contributed to the subject project by the department will come from its mass transportation allocations, and not from the general highway fund or trust funds administered by it. Also, the witness stated that the department's involvement applies only to that portion of the project relating to the AHSL (A. 98061), designated as Stage B. Further, the department objects to the inclusion under Stage B of all costs of the common pier supporting both the Stage A and Stage B portions of the superstructure, contending that costs of this common pier should be pro-rated between the two portions of the work.

National Railroad Passenger Corporation (Amtrak) presented testimony through L. Cheifetz, Structural Engineer, who stated that the line of railroad passing beneath the structure at the subject location is known as the Northeast Corridor, owned and operated by Amtrak. Both Amtrak and Conrail operate over the five tracks, running 24 freight trains daily, at 50 miles an hour authorized speed; and 152 passenger trains daily, at 80 miles an hour authorized speed. Passenger trains consist of both long-haul Amtrak trains, and Conrail commuter trains.

Amtrak has reviewed the bridge construction plans and the electrification plans prepared by the city, and has no objection to the proposed improvement, provided that rail operations are maintained and that all costs incurred by Amtrak are reimbursed. While the corporation will agree to release damages for any right-of-way property necessary to be taken for purposes of the improvement, and will also maintain its own facilities in the future, it is not willing to bear any costs attendant to the project. Amtrak estimates that costs of labor, materials and equipment for the necessary work to be performed on its catenary system will amount to \$56,400. It agrees to perform this work with its own forces, as well as to provide any additional services in the form of watchmen, flagmen, and construction inspectors, provided the applicant makes full reimbursement for this work and services.

Amtrak denies any responsibility or obligation for the overhead 58th Street bridge above its tracks, contending that the conveyances to it from Penn Central Transportation Company, through Conrail, encompassed only rail-related facilities, including the electrification system. The corporation is of the opinion that the Public Utility Commission, in assuming jurisdiction over the proposed crossing reconstruction, should properly include costs of electrification adjustments in its allocations against the highway interests seeking construction of the project.

Philadelphia Electric Company presented testimony through G.W. Gordon, Senior Engineer, who stated that the company has reviewed the plans for the project, as prepared by City of Philadelphia, and has no objection to the improvement, provided its facilities can be rearranged, replaced, relocated and maintained as described in testimony presented at the December 8, 1975 hearing in this matter. According to the witness, there is a proposed agreement pending between the city and PE

company, conceived as a result of the overall AHSL project, wherein the city agrees to pay all costs involved for work to be performed on company facilities at the subject location, both in private and in public right-of-way. PE company reserves the right to be heard on final cost allocations at this location, in the event the proposed agreement is not executed by the parties.

W. Webster, Supervising Engineer for The Bell Telephone Company of Pennsylvania, presented testimony and offered for the record Bell Exhibit No. 1, a one-page schematic diagram entitled "PE Company Elmwood Substation". This sketch plan shows in schematic form the existing and proposed altered facilities, and the location thereof, of the company, in the vicinity of the 58th Street bridge reconstruction project. According to the witness, the telephone company presently has two wrought iron pipes and four transite ducts on the existing bridge, but none contain any cables or wires. The pipes were installed in 1904 and the transite conduits were installed in 1952. At the north end of the bridge, in the area to be occupied by the proposed new north abutment, the company has an existing manhole which will require relocation, together with various alterations to the service lines feeding the PE Company substation.

This work, estimated to cost approximately \$4,000 will include placing of 50 feet of new 4-inch conduit, vacation of 74 feet of existing conduit, removal of various lengths of existing cable, and placing of new 50-pair cable to provide service to the substation. The telephone company agrees to perform the necessary work, which it estimates will take 20 working days to complete, and to be responsible for future maintenance of the facilities. However, it was pointed out in the witness' testimony that the company's existing plant is adequate for present and anticipated needs, and that it would not make any changes to the system were it not required to do so as a result of the proposed bridge reconstruction.

Southeastern Pennsylvania Transportation Authority (SEPTA), through F. Berdan, Director-Operational Planning, presented testimony in support of the city's applications, advising that the authority has been cooperating with the city in the technical aspects of the AHSL project in general, and in the reconstruction of the 58th Street bridge in particular.

SEPTA owns and maintains an overhead power transmission line, feeding a streetcar line, south of the bridge, from its 58th and Woodlawn Avenue substation, north of the bridge. This facility will require adjustment twice during the construction period, in order to facilitate the two-stage working sequence. The authority will agree to perform these necessary adjustment operations at its initial expense, estimated at approximately \$14,000. SEPTA requests reimbursement of these costs from the city, applicant in these proceedings, inasmuch as this line, according to the witness, was installed circa 1897, prior to the inauguration

by the city of the permit system for occupancy of public streets. Exhibits relevant to the breakdown of its cost estimate, and the authority under which the power line was originally installed, were to be submitted by SEPTA as late-filed exhibits.

Philadelphia Gas Works (PGW) presented testimony through J. Zimmerman, III, Corrosion Engineer, who stated that PGW has no objection to the approval of construction in accordance with the city's plans. The gas works presently maintains a 20-inch diameter and a 30-inch diameter gas main on a utility bridge adjacent to the highway structure, which mains will each require relocation over a length of approximately 457 feet to accommodate the project. New mains of equivalent diameters will be placed within a utility bay on the new structure.

According to the witness, PGW will enter into an agreement with City of Philadelphia, with regard to any relocation costs incurred by reason of the project, and accordingly requests that the Public Utility Commission not make independent allocations of such costs. PGW makes no claim in these proceedings, other than that the Commission's order be without prejudice to its right to recover such costs, pursuant to such agreements as it may enter into with the city. Should that agreement not be consummated, PGW reserves the right to be heard on the matter of cost allocations at further hearings.

The hearing of March 22, 1977 was closed, following discussion among the various counsel and the Administrative Law Judge, relative to the various city-utility company agreements, their consummation by the parties, approvals pending from the Federal Urban Mass Transportation Authority, exhibits to be late-filed, et al. Further hearing was held on May 18, 1977, at which no testimony was presented, but at which several exhibits were entered for the record, and statements were made by various counsel.

City of Philadelphia Exhibit A-14 is a six-page document, being a copy of the deed between John C. Kohl, Trustee of the property of The Philadelphia, Baltimore and Washington Railroad Company, debtor, and Consolidated Rail Corporation, which encompasses that portion of the rail line at the 58th Street location, subject hereof; and which the city contends also encompasses the overhead bridge structure involved herein.

City Exhibit A-15 is a two-page document, consisting of a title sheet, together with a copy of Page 243 of Volume I of the Final System Plan of the U.S. Railway Association.

City Exhibit A-16 is a two-page document, consisting of a title sheet, together with a copy of Page 46 of the Uniform System of Accounts for Railroad Companies prescribed by the Interstate Commerce Commission.

City Exhibit A-17 is a single-page document, being a copy of a letter dated December 27, 1976, to Mr. M. Gilinsky, Assistant City Solicitor, City of Philadelphia, from D. M. Soni, Acting Regional

Engineer for Urban Mass Transportation Administration, U.S. Department of Transportation, expressing UMTA concurrence with the proposed City/Gas Works agreement for this project, with a maximum compensation value of \$840,321.

City Exhibit A-18 is a 49-page document, being a copy of an agreement dated March 11, 1977, between City of Philadelphia and Philadelphia Facilities Management Corporation (owner-operator of Philadelphia Gas Works), bearing signatures of approval by representatives of each party; attached to which are copies of the city's Standard Contract Requirements and Cost Estimates for the work covered by the agreement.

City Exhibit A-19 is a single-page document, being a copy of a letter dated April 4, 1977, to Mr. R. S. Starr, Project Manager for the AHSL Project, from D. M. Soni, Acting Regional Engineer for UMTA, expressing UMTA concurrence with the proposed City/Philadelphia Electric Company agreement for this project, with the requirement that the city submit easement costs and force account work for UMTA approval, in accordance with the agreement.

City Exhibit A-20 is a 14-page document, being a copy of an agreement dated March 28, 1977, between City of Philadelphia and Philadelphia Electric Company, bearing signatures of approval by representatives of each party; attached to which is a copy of the ordinance approving the agreement.

All the noted exhibits were admitted of record, over objection by counsel for Conrail to Exhibit A-14, and over objection by counsel for Amtrak to Exhibit A-15, as well as reservations stated by counsel for Philadelphia Gas Works and Southeastern Pennsylvania Transportation Authority, respectively, that any agreements between their client(s) and the city are independent of and not affected by other agreements between the city and any other party.

Counsel for Amtrak was granted permission to late-file as an exhibit Pages 241 and 242 of Volume I, USRA Final System Plan, which exhibit was received for the record on May 23, 1977. Also, counsel for Conrail was granted permission to late-file as its Exhibit No. 1, a copy of the deed conveying to Amtrak, on the same day, those relevant properties which Conrail received from the trustees. Further, counsel for City of Philadelphia was directed to submit for the record, and to all parties, an additional page to be appended to city's Exhibit A-14. SEPTA's Exhibit No. 1 was also admitted, being a single-page Estimate of Costs for work proposed to be performed by it, in the amount of \$15,000.

The hearing was closed with Administrative Law Judge Ballastrone directing all counsel to include in their briefs findings of fact, conclusions of law, and a proposed order including suggested cost allocations, for each of the two portions of the proposed project (Stage A, at A. 99374, and Stage B, at A. 98061).

On May 23, 1977, National Railroad Passenger Corporation submitted its late-filed Exhibit, being a copy of pages 241 and 242 of the USRA Final System Plan, dated July 26, 1975; and on May 26, 1977, Trustees of Penn Central Transportation Company submitted its late-filed Exhibit B, being a copy of the deed of transfer of rail properties to Conrail. Briefs were filed by City of Philadelphia, on July 18, 1977; by National Railroad Passenger Corporation, on July 22, 1977; by Trustees of Penn Central Transportation Company, on August 1, 1977; by Consolidated Rail Corporation, on August 2, 1977; and by The Bell Telephone Company of Pennsylvania on September 8, 1977. On August 8, 1977 Philadelphia Electric Company advised it would file no brief in this matter, and on August 18, 1977, Trustees of Penn Central Transportation Company filed a reply brief to the brief of Amtrak.

#### FINDINGS

Upon careful consideration of all evidence of record, including the testimony and exhibits presented at the hearings held March 22 and May 18, 1977, together with all late filed exhibits, we make the following findings:

1. The crossing subject of these proceedings is that where 58th Street (a city street in City of Philadelphia) presently crosses over and above five existing tracks of the Northeast Corridor, owned and operated by National Railroad Passenger Corporation (Amtrak).
2. Both the subject proceedings are before the Commission by reason of applications filed by City of Philadelphia, seeking, inter alia, reconstruction of various portions of the 58th Street bridge.
3. The application docketed at A. 98061, while pertaining to the overall construction, alteration, et al., of numerous crossings affected by the Airport High Speed Rail Commuter Line project, also specifically pertains to the necessity for reconstruction of a portion of the existing 58th Street bridge structure, as occasioned by the AHSL project at this location.
4. The application docketed at A. 99374 pertains solely to the proposed reconstruction of those remaining portions of the existing 58th Street bridge structure not otherwise affected by the AHSL project.
5. The rail line and tracks involved at A. 98061 consist of two proposed new tracks of the AHSL, to be placed following completion of the work of reconstruction of the overhead structure.
6. The rail line and tracks involved at A. 99374 consist of five existing tracks of National Railroad Passenger Corporation (Amtrak - formerly Penn Central Transportation Company), to be retained without change in location or alignment.
7. The total reconstruction of the existing 58th Street bridge is separated into two distinct and separate parts: Stage A, relating to all work attendant to the proposed partial bridge reconstruction

under docket A. 99374; and Stage B, relating to all work attendant to the proposed partial bridge reconstruction under docket A. 98061.

8. There are two separate and distinct modes of funding for the work proposed to be performed under the separate application dockets.

9. Under A. 98061 (Stage B), the majority of costs are considered costs of work necessitated by the AHSL project and therefore, are eligible to be funded 80% by a Federal grant through Urban Mass Transportation Administration, 16-2/3% by state aid through Pennsylvania Department of Transportation, and 3-1/3% by City funds.

10. Under A. 99374 (Stage A), the majority of costs, with certain minimal exceptions, are not covered by agreements, and are to be borne and paid by the concerned parties in such proper proportions and this Commission shall, after due notice and hearing, determine.

11. City of Philadelphia, at its own initial expense, prepared engineering drawings covering all structural aspects of the total combined proposed reconstruction of the existing 58th Street bridge (construction Stages A and B), identified as City Exhibit A-2.

12. The city's estimated cost of effecting the proposed structural changes to the bridge proper, under Stage A, amounts to \$660,000 (City Exhibit A-4) which figures includes an amount of \$32,200 for approach roadway work, \$84,700 for work on an existing 30-inch diameter water line; and \$60,000 for engineering, borings, etc.

13. The city's estimated cost of effecting the proposed structural changes to the bridge proper, under Stage B, amounts to \$740,000 (City Exhibit A-6), which figure includes an amount of \$41,000 for approach roadway work; \$73,200 for work on an existing 30-inch diameter water line; and \$65,000 for engineering, borings, etc.

14. City of Philadelphia, at its own initial expense in the amount of \$76,306, prepared engineering drawings covering all aspects of the structural work necessary to be performed on, and changes to be effected to, the existing railroad electrification and traction system, identified as City Exhibit A-3.

15. The city's estimated cost of effecting the proposed structural changes in accordance with City Exhibit A-3 (such work to be performed by the general contractor for the project) amounts to \$100,000.

16. Attendant costs for labor, materials, equipment, operations, et al., to be furnished and/or performed by Amtrak forces in connection with Finding No. 15, above, were not estimated by the city, but were acknowledged by it in Exhibit A-3 as necessary additional costs, over and above the \$100,000 for contract work.

17. 58th Street was originally dedicated as a public thoroughfare in 1866.

18. The existing structure was originally constructed in 1892 by the then Pennsylvania Railroad Company and various structural modifications have been effected to the bridge since that date.

19. The Pennsylvania Railroad Company and its successor Penn Central Transportation Company, historically and by reason of performance, have been responsible for the maintenance and perpetuation of the crossing structure.

20. The railroad electrification facilities were constructed by The Pennsylvania Railroad Company in 1928, subject to approval by City of Philadelphia with respect to attachment of those facilities to the bridge, and further subject to the conditions of that approval regarding maintenance, repairs, et al., as set forth in City Exhibit A-7.

21. Amtrak owns and operates the line of railroad passing beneath the structure, said lines being known as the Northeast Corridor.

22. Amtrak admits to ownership of and responsibility for the operation and maintenance of the existing railroad, tracks, electrification facilities, and attendant rail-related equipment and properties; but, Amtrak denies that it owns or has any obligation for the overhead bridge carrying 58th Street above its tracks.

23. Amtrak refused to undertake the engineering, design, and plans preparation for the necessary removal, temporary relocations, and reattachments of its electrification facilities, which would be required to accommodate reconstruction under Stage A.

24. Average daily rail traffic over the five tracks at the subject crossing consists of 24 freight trains, traveling at maximum speeds of 50 miles per hour, and 152 passenger trains, traveling at maximum speeds of 80 miles per hour.

25. Amtrak is a "concerned" party at the subject crossing within the context of Sections 409 and 411 of the Public Utility Law, as amended, 66 P.S. §§1179, 1181.

26. Average daily vehicular traffic at this location consists of 8,000 movements per day, which the city anticipates will increase to 9,000 per day by 1985.

27. Amtrak does not object to the proposed reconstruction of the 58th Street bridge, as set forth in the city's application(s), provided all rail operations are maintained, and further provided that all costs incurred by Amtrak as a result of the project are reimbursed to it.

28. Amtrak agrees to perform any necessary work to the electrification facilities, estimated by it to cost \$56,400 and to provide watchmen, flagmen, inspection services, et al., subject to its position that all such costs be reimbursed to it, by the applicant, City of Philadelphia.

29. Amtrak agrees to maintain its own facilities, at its own expense, subsequent to completion of the project.

30. City of Philadelphia agrees to bear all costs for relocation of the existing facilities of Philadelphia Electric Company, for both Stage A and Stage B, exclusive of salvage values and/or betterments, by reason of certain reciprocal franchises to be granted to the city by the electric company, under terms of an agreement between those parties, City Exhibit A-20.

31. City of Philadelphia desires that all costs for relocation of the existing facilities of Philadelphia Gas Works, for both Stage A and Stage B, exclusive of salvage value and/or betterments, be borne by UMTA, PennDOT and the City, in accordance with the terms of an agreement submitted into evidence as City Exhibit A-18.

32. City of Philadelphia desires that all costs for relocation of the existing facilities of The Bell Telephone Company, for Stage A and Stage B, be borne in toto by the telephone company.

33. City of Philadelphia admitted into evidence, City Exhibit Nos. A-9 to A-13, permits issued by the Board of Highway Supervisors to The Bell Telephone Company of Pennsylvania granting street occupancy to the company and requiring Bell to bear its own relocation costs if such costs are occasioned by the construction of a water or gas main or any other municipal work.

34. City desires that all costs for relocation of the existing facilities of Southeastern Pennsylvania Transportation Authority, for both Stage A and Stage B, be borne in toto by the authority.

35. City of Philadelphia made a request to UMTA, and received approval from UMTA, for reimbursements to Philadelphia Electric Company and Philadelphia Gas Works for the costs of adjustments necessary to be performed on those non-carrier utility facilities.

36. City of Philadelphia did not make a request to UMTA for similar approvals relating to the facilities of The Bell Telephone Company and SEPTA.

37. City desires that, should watchmen, flagmen, construction inspectors, or other such personnel and/or services be deemed necessary by any party, the requesting party be directed to furnish same and to bear the costs thereof.

38. Each other party hereto is of the opinion that the applicant should be required to bear the costs of any necessary watchmen, flagmen, construction inspectors, or other such personnel and/or services.

39. Pennsylvania Department of Transportation's involvement with the project relates only to the Stage B (AHSL) portion.

40. Any funds to be contributed to the project by PennDOT will come from its general fund mass transportation allocations and not from its state-budgeted highway trust funds, motor license funds, or from liquid fuel tax funds.

41. Amtrak agrees to waive damages for such portions of its operating right-of-way property required for purposes of the proposed construction, but is not agreeable to bear any of the costs of effecting the improvement.

42. Philadelphia Electric Company has no objection to the improvements proposed by city's applications at A. 98061 and A. 99374, provided that its facilities can be properly adjusted, and further provided that all costs incurred by it are reimbursed in accordance with the agreement between the company and the city.

43. The Bell Telephone Company of Pennsylvania asserts it must make certain alterations to its present system and facilities, estimated to cost \$4,000, in order to accommodate the project.

44. The Bell Telephone Company estimates it will take 20 working days to complete the necessary alterations to its facilities, and agrees to be responsible for future maintenance of the facilities.

45. The Bell Telephone Company's present system and facilities are adequate for present and anticipated needs, and no changes would have been made to continue to provide proper service, were the company not required to do so as a result of the bridge reconstruction project as proposed by City of Philadelphia.

46. The evidence of record is not sufficiently clear to resolve this factual dispute between City of Philadelphia and Bell Telephone Company relative to whether Bell's facility relocations and adjustments are covered by the City occupancy permits, City Exhibits Nos. A-9 to A-13.

47. The evidence of record shows that significant portion of Bell Telephone Company's facilities required to be relocated and adjusted as a result of this project, Bell Exhibit No. 1, are located beyond the limits of public right-of-way.

48. SEPTA desires the applications of City of Philadelphia be approved, and has been cooperating with the city in the technical aspects of the AHSL in general, and in the reconstruction of the 58th Street bridge in particular.

49. SEPTA owns and maintains an overhead power transmission pole line along 58th Street, which will require adjustment twice during the construction period, in order to accommodate and facilitate the bridge reconstruction project, at an estimated cost of \$15,000.

50. SEPTA agrees to perform the necessary work of making these adjustments, but requests reimbursements of all costs so incurred.

51. SEPTA's existing power transmission line, located in public right-of-way, was originally constructed around 1897, prior to the inauguration by the city of the permit system for public right-of-way occupancy.

52. Philadelphia Gas Works testified that it must make adjustments to its facilities in order to accommodate the project, estimated to amount to \$89,000.

53. City Exhibit A-18 is a copy of an agreement dated March 11, 1977, entered into between City of Philadelphia and Philadelphia Facilities Management Corporation (owner-operator) of Philadelphia Gas Works, covering reimbursement to the gas company for relocation costs incurred as a result of the proposed project, exclusive of salvage value and betterments.

54. Philadelphia Gas Works requests the Commission order be without prejudice to the right of the gas works to recover the costs of its relocations under and pursuant to such agreements as may exist between it and the city, without necessity of certification by the Commission.

55. City's Exhibit A-17 indicates concurrence by UMTA with the agreement between the city and the gas works, City Exhibit A-18, relative to reimbursements for facility relocations with a maximum compensation value of \$840,321.

56. City's Exhibit A-19 indicates concurrence by UMTA with the agreement between the city and the electric company, City Exhibit A-20, relative to reimbursements for facility relocations, subject to the conditions set forth in the agreement.

57. No party contested the city's testimony that the subject structure is substandard in carrying capacity; that it is in a poor, deteriorated, defective and deficient condition; and that it is in need of improvement, the best method of accomplishing such improvement being by complete reconstruction of the structure.

58. The city requests the Commission to ignore the fact that no permit appears to have been issued to SEPTA for street occupancy and asks that the Commission direct SEPTA to bear any costs incurred by it.

59. The city did not produce any occupancy permits covering Philadelphia Electric Company and/or Philadelphia Gas Works facilities, choosing instead to enter into agreements of convenience with these

utilities; and the city further requests that the Commission make no allocation in its order with respect to these utility companies.

60. City of Philadelphia requests that parties other than it bear the major portion of costs attendant to the work which the city requests permission to effect, under its application at A. 99374.

We hereby determine and conclude that the prayer of the instant applications, insofar as same pertain and relate to the 58th Street Bridge crossing, above grade, should be granted. Our review of the record indicates that the common good of the public and of all involved parties at this location will be best served by construction of the total project as proposed by the application at A. 98061 and A. 99374, in lieu of only partial improvement as necessitated by the Airport High Speed Line.

Further, we determine and conclude insofar as there exist agreements relating to funding of AHSL portion of the improvement, designated as Stage B, at A. 98061, this Commission should not, in this instance, abrogate such agreements by independent assessment and allocation of those costs.

This Commission in its exercise of the extensive powers entrusted to it by the Legislature, has taken into consideration and carefully evaluated all pertinent facts, data, and information within the record pertaining to the crossing under consideration. The safety, accommodation and convenience of the public, including pedestrians, motorists, railroad personnel and patrons, is of paramount concern to this Commission in its ultimate determination of the type and extent of improvement necessary, and the Commission and all parties in interest have a continuing obligation to ensure that safe, adequate and convenient railroad-highway crossing facilities are so provided and properly maintained.

The cost of an improvement, if such improvement is to attain fruition, must be borne by the parties concerned at the crossing and, lacking voluntary assumption of the involved costs, this Commission, having fully considered all evidence of record, will impose project obligations in such proper proportions as we determine equitable.

Inasmuch as Stage A of this project, relating to all work attendant to the City's application at A. 99374, involves alteration of the crossing by reconstruction of the bridge carrying 58th Street over and above the tracks of National Railroad Passenger Corporation; since 58th Street serves as a vital link between areas within the City; and since reconstruction of the 58th Street Bridge is requested by the city principally to meet the transportation needs of the traveling public in the City of Philadelphia, we deem it fair and equitable that the City bear the major share of the costs and

expenses for the proposed improvement. Additionally, in view of the fact that the bridge carries 58th Street which is a city street and since the bridge reconstruction will primarily benefit all segments of the traveling public within the city, we determine and conclude that the City of Philadelphia should accept responsibility for future maintenance of the bridge structure, and we so order.

Because Amtrak owns the rail line and facilities involved at the A. 99374 portion of the project, including the electrification facilities installed or attached to the bridge; and since Amtrak is operating numerous high speed passenger trains over the five tracks of this location, said trains having the advantage of passing under the highway, we determine and conclude that Amtrak should also bear a portion of the costs relating to the A. 99374 portions of the proposed improvement, including any costs for temporary or permanent adjustments to the railroad's facilities.

Accordingly, we deem it fair and appropriate that the City of Philadelphia initially bear all of the bridge reconstruction costs, for all portions of work, with reimbursement to the City by Amtrak of 25% of the costs incurred by the city for the A. 99374 portions of the project, and without prejudice to the City's right to recover, from Penn DOT and UMTA, all or any portion of the costs for A. 98061 portions, pursuant to any lawful agreements existing or subsequently consummated between either PennDOT or UMTA and the City.

With regard to the costs of altering and relocating the facilities of the fixed utilities "concerned" at the crossing, the City of Philadelphia has entered into separate agreements with Philadelphia Gas Works and Philadelphia Electric Company, the terms of said agreements covering reimbursement to these utilities for costs incurred as a result of facility relocations necessitated by the proposed project. This Commission will not abrogate the terms of these agreements.

As to the relocation costs incurred by the Bell Telephone Company of Pennsylvania by reason of this improvement, we determine and conclude that since the existing plant of Bell is adequate for present and anticipated needs, since Bell would not have made any changes to its system if not required to do so as a result of the proposed improvement, and since the evidence of record is not sufficiently clear for this Commission to determine whether the facilities required to be relocated by Bell are covered by city occupancy permits, the City of Philadelphia should bear the costs, both initially and finally, for all materials and all work necessary for Bell to make the necessary alterations or relocations to its facilities located within public right-of-way, exclusive of any betterments and salvage value. It is further to be understood that this allocation is without prejudice to the City of Philadelphia's right to seek recovery in another forum for all or a portion of these costs pursuant to any lawful agreement existing between the City and Bell Telephone Company of Pennsylvania.

Relative to Bell's facilities which are located beyond the public right-of-way and require adjustment or relocation as a result of this project, we deem it fair and appropriate that the company be justly compensated for costs incurred in relocating or adjusting these facilities exclusive of salvage value and betterments.

Further, inasmuch as the adjustments to SEPTA's facilities at the crossing are required solely to accommodate and facilitate the bridge reconstruction project, we determine and conclude that the City of Philadelphia should reimburse SEPTA a sum or sums equal to 100% of the required adjustments to SEPTA facilities, less any salvage value of materials and betterments; THEREFORE,

IT IS ORDERED:

1. That the application at A. 99374, pertaining to the alteration and/or reconstruction of the major portions of the existing 58th St. bridge crossing, above the grade of tracks of National Railroad Passenger Corporation (designated as Construction Stage A), be and is hereby approved; and that 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 (designated as Construction Stage B), be and is hereby approved.

2. That the existing crossing, above grade, (A. 99374/Stage A) be altered and/or reconstructed; and that a new crossing, above grade (A. 98061/Stage B), be constructed; all in accordance with the plan prepared by City of Philadelphia and admitted at the hearing held March 22, 1977 as City Exhibit A-1, which plan is attached hereto, made part hereof, and is hereby approved.

3. That the detail drawings for construction of the project prepared by City of Philadelphia and admitted at the hearing held March 22, 1977 as City Exhibit A-2, be and are hereby approved, except insofar as they may relate to the division of work, the deletion of work, or to the allocation of the costs and expenses incident thereto.

4. That the detail drawings for the required alterations to the railroad electrification system, necessary to accommodate Stage A construction, prepared by City of Philadelphia and admitted at the hearing held March 22, 1977 as City Exhibit A-3, be and are hereby approved, except insofar as they may relate to the division of work, the deletion of work, or to the allocation of the costs and expenses incident thereto.

5. That City of Philadelphia, at its initial cost and expense, furnish all material and do all work necessary to alter and/or reconstruct the existing crossing, above grade, and the southerly highway approach thereto (A. 99374/Stage A), including any necessary adjustments to the city-owned water line or other city-owned facilities, generally in accordance with the approved plans, City Exhibits A-1 and A-2.

6. That City of Philadelphia, at its initial cost and expense, furnish all material and do all work necessary to construct the new crossing, above grade, and the northerly highway approach thereto (A. 98061/Stage B), including any necessary adjustments to the city-owned water line or other city-owned facilities, generally in accordance with the approved plans, City Exhibits A-1 and A-2.

7. That National Railroad Passenger Corporation, at its sole cost and expense, furnish all material and do all work necessary to make any temporary or permanent adjustments, alterations or modifications of its electrification system, tracks, wire lines, signal lines, or other facilities required by reason of the construction of the improvement, all in accordance with the approved plans, City Exhibit A-3.

8. That National Railroad Passenger Corporation, at its initial cost and expense, and as required by reason of the contractor's operations and methods, furnish and maintain watchmen and/or flagmen to protect its rail operations and facilities during the time the work is in progress over, under, across or adjacent to the tracks at this location; and in addition, furnish construction inspectors and/or engineering services to observe the progress of the work or to ensure the safety of its rail operations and facilities which may be affected by the design and construction of the project.

9. That National Railroad Passenger Corporation, at its sole cost and expense, furnish and maintain Class A electrification protection employees to ensure the safety of its facilities and equipment at this location, and to avoid personal injury or property damage to itself or to other parties, including the city's contractor, its employees and operations, during the time work is being performed on, over, under, across or adjacent to the electrification system.

10. That Philadelphia Gas Works, at its initial cost and expense, furnish all material and do all work necessary to make any temporary or permanent alterations, relocations and/or changes to its existing mains, structures, equipment or other facilities, as required by reason of and to accommodate construction of the improvement in accordance with this order.

11. That Philadelphia Electric Company, at its initial cost and expense, furnish all material and do all work necessary to make any temporary or permanent alterations, relocations and/or changes to its existing aerial and underground lines, conduits, structures, equipment or other facilities, as required by reason of and to accommodate construction of the improvement in accordance with this order.

12. That Philadelphia Electric Company, at its initial cost and expense, furnish and maintain such safety inspectors or other personnel, as required to ensure the safety of its facilities and equipment at this location and to avoid personal injury or property

damage to itself or to other parties, including the city's contractor, its employees and operations, during the course of the construction in accordance with this order.

13. That The Bell Telephone Company of Pennsylvania, at the City of Philadelphia's initial cost and expense, furnish all material and do all work necessary to make any temporary or permanent alterations, relocations and/or changes to its existing aerial and underground lines, conduits, structures, equipment or other facilities located within public right-of-way as may be required, by reason of and to accommodate construction of the improvement in accordance with this order.

14. That Bell Telephone Company of Pennsylvania, at its initial cost and expense, furnish all material and do all work necessary to make any temporary or permanent alterations, relocations and/or changes to its existing aerial and underground lines, conduits, structures, equipment or other facilities located beyond the limits of any public right-of-way as may be required by reason of and to accommodate construction of the improvement in accordance with this order.

15. That Southeastern Pennsylvania Transportation Authority, at its initial cost and expense, furnish all material and do all work necessary to make any temporary or permanent alterations, relocations and/or changes to its existing transmission lines, conduits, structures, equipment or other facilities, as required by reason of and to accommodate construction of the improvement in accordance with this order.

16. That any relocation of, changes in or removal of any adjacent structures, equipment or other facilities of any public utility, exclusive of National Railroad Passenger Corporation, Philadelphia Gas Works, Philadelphia Electric Company, The Bell Telephone Company of Pennsylvania, and Southeastern Pennsylvania Transportation Authority, as hereinabove provided, located within or beyond the limits of the improvement, which may be required as incidental to the construction of the project, be made by said public utility, at its sole cost and expense, and in such manner as will not interfere with the construction of the improvement, and said relocated or changed facilities thereafter be maintained by the respective utility.

17. That City of Philadelphia, at its initial cost and expense, furnish all material and do all work necessary to effect the vacation, relocation, removal or demolition of any nonutility structures, including occupied dwellings, located upon property required for purposes of the improvement.

18. That City of Philadelphia, at its initial cost and expense, furnish all material and do all work necessary to establish and maintain any temporary alternate route which may be found necessary or advisable to accommodate properly vehicular and pedestrian traffic during the course of the construction.

19. That City of Philadelphia, at its initial cost and expense, furnish all material and do all work necessary to complete the remainder of the railroad-highway crossing improvement project in accordance with the approved plans.

20. That City of Philadelphia cooperate with National Railroad Passenger Corporation, the operators of the Airport High Speed Line, and any other involved public utility company, so that during the alteration, reconstruction and/or construction of the project (A. 99374/Stage A and A. 98061/Stage B), the operations and facilities of the rail companies and the utility companies will not be endangered or unnecessarily impeded.

21. That during the time the work is underway on the project, National Railroad Passenger Corporation, the operators of the Airport High Speed Line, and any other involved public utility company cooperate with City of Philadelphia and conduct its respective operations and facilities within the vicinity of the work in a safe manner and under control.

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.

23. That National Railroad Passenger Corporation pay any money to which it may be entitled as compensation for any of its operating right-of-way property taken, injured or destroyed by reason of construction of the crossing improvement project in accordance with this order.

24. That City of Philadelphia, at its initial cost and expense, pay all compensation for damages, if any, due to the owners, exclusive of National Railroad Passenger Corporation, as hereinabove provided; for property taken, injured or destroyed by reason of the construction of the crossing improvement project in accordance with this order.

25. That National Railroad Passenger Corporation pay City of Philadelphia, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to 25 percent of the actual costs incurred by the city for engineering services and in the preparation of the construction drawings for that portion of the project covered by A. 99374 (Stage A).

26. That National Railroad Passenger Corporation pay City of Philadelphia, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to the actual costs incurred by the city for engineering services and in the preparation of the electrification drawings, for that portion of the project covered by A. 99374 (Stage A).

27. That National Railroad Passenger Corporation pay City of Philadelphia, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to 25 percent of the actual costs incurred by the city in furnishing material and in doing work in accordance with numbered Paragraph 5 of this order, exclusive of work and materials relating to the southerly highway approach and the city-owned water line or other city-owned facilities.

28. That City of Philadelphia pay National Railroad Passenger Corporation, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to the actual costs incurred by the Corporation in furnishing material and in performing work in accordance with numbered Paragraph 8 of this order.

29. That the actual costs incurred by the Philadelphia Gas Works in furnishing material and in performing work in accordance with numbered Paragraph 10 of this order, be shared in accordance with the terms of a prior lawful agreement covering the payment of these costs, City Exhibit No. A-18.

30. That actual costs incurred by the Philadelphia Electric Company in furnishing material and in performing work in accordance with numbered Paragraphs 11 and 12 of this order, be shared in accordance with the terms of a prior lawful agreement covering the payment of these costs, City Exhibit No. A-20.

31. That the initial costs incurred by the City of Philadelphia in the relocation of Bell Telephone Company's facilities, in accordance with numbered Paragraph 13 of this order, be borne finally by the City of Philadelphia, less any salvage value of materials recovered or reused by Bell Telephone Company, and exclusive of any betterments to Bell's system and facilities.

32. That City of Philadelphia pay The Bell Telephone Company of Pennsylvania a sum or sums of money equal to the actual costs incurred by the Telephone Company in furnishing material and in performing work in accordance with numbered Paragraph 14 of this order, less any salvage value of materials recovered or reused by the company, and exclusive of any betterments to its system and facilities.

33. That City of Philadelphia pay Southeastern Pennsylvania Transportation Authority a sum or sums of money equal to the actual costs incurred by the Transportation Authority in furnishing material and in performing work in accordance with numbered Paragraph 15 of this order, less any salvage value of materials recovered or reused by the Authority, and exclusive of any betterment to its system and facilities.

34. That upon completion of the construction of the improvement and its opening to public use, National Railroad Passenger Corporation, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its existing and/or altered electrification system and all supporting elements therefor, its tracks, wire lines, signal lines and other facilities located at or in the vicinity of the reconstructed crossing(s), above grade.

35. That upon completion of the construction of the improvement and its opening to public use, City of Philadelphia, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the entire substructure and superstructure of the new bridge(s) carrying 58th St. above the tracks at this location (A. 99374/Stage A and A. 98061/Stage B), including all prestressed beams, diaphragms, tie rods, roadway slabs, walkways, railings, bearing shoes, expansion dams, abutments, piers and foundations, complete, as constructed in compliance with this order.

36. That upon completion of the construction of the improvement and its opening to public use, City of Philadelphia, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain all curbs, sidewalks, and roadway paving located on the approaches to the reconstructed crossing(s), above grade.

37. That upon completion of the construction of the improvement and its opening to public use, Philadelphia Gas Works, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its existing and/or altered facilities located at or in the vicinity of the reconstructed crossing, above grade.

38. That upon completion of the construction of the improvement and its opening to public use, Philadelphia Electric Company, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its existing and/or altered facilities located at or in the vicinity of the reconstructed crossing, above grade.

39. That upon completion of the construction of the improvement and its opening to public use, The Bell Telephone Company of Pennsylvania, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its existing and/or altered facilities located at or in the vicinity of the reconstructed crossing, above grade.

40. That upon completion of the construction of the improvement and its opening to public use, Southeastern Pennsylvania Transportation Authority, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its existing and/or altered facilities located at or in the vicinity of the reconstructed crossing, above grade.

41. That upon completion of the construction of the improvement and its opening to public use, City of Philadelphia, at its sole cost and expense, furnish all material and do all work necessary thereafter

to maintain the remainder of the improvement, including the tracks, roadbed and other ancillary facilities of the Airport High Speed Line passing beneath the subject structure.

42. That this order, insofar as it imposes certain costs upon City of Philadelphia is without prejudice to the right of the city to recover part or all of such costs thus incurred in furnishing material and in performing work in accordance with this order, from Department of Transportation, Urban Mass Transportation Administration, Bell Telephone Company of Pennsylvania, or others, in such proportions and in accordance with the terms of any lawful agreement existing, or subsequently consummated, between it and such other party.

43. That this order, insofar as it imposes certain costs upon National Railroad Passenger Corporation is without prejudice to the right of the railroad to recover all or part of such costs thus incurred in furnishing material and in performing work in accordance with this order, from Penn Central Transportation Company or Consolidated Rail Corporation, in such proper proportions and in accordance with any lawful agreement existing between it and such other party.

44. That a copy of this order be placed in the record folder of each proceeding, at A. 98061 and A. 99374, respectively.

BY THE COMMISSION,

C. J. McElwee  
Secretary

(SEAL)

ORDER ADOPTED: February 8, 1978.

ORDER ENTERED: **FEB 16 1978**