

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of CSX Transportation Inc. to reassign :
maintenance responsibility for the bridge :
structure where Bort Road (T-270) : P-2015-2465847
crosses above CSX Transportation Inc.'s :
tracks (DOT#524035A) :
in Northeast Township, Erie County :

RECOMMENDED DECISION

Before
Alphonso Arnold III
Administrative Law Judge

INTRODUCTION

This Recommended Decision recommends that the Pennsylvania Public Utility Commission grant CSX Transportation Inc.'s Motion to Withdraw its Petition to Reassign Maintenance Responsibilities, because granting the Motion to Withdraw is in the public interest.

HISTORY OF THE PROCEEDING

On January 29, 2015, CSX Transportation, Inc. ("CSX") filed a Petition with the Pennsylvania Public Utility Commission. CSX requested that maintenance responsibility for the bridge structure where Bort Road (T-270) crosses above CSX's tracks in North East Township, Erie County ("the Township"), be reassigned from it to

the Township.¹ CSX contended that maintenance responsibility should be reassigned to the Township because replacement of the bridge will be necessary in the coming years, and the Township as the owner of the bridge is the only party capable of securing the funding necessary for its replacement. CSX argued that the Township has not taken the steps necessary to secure funding for the bridge's replacement and that maintenance reassignment would provide the needed drive for the Township to secure the necessary funding.²

On February 23, 2015, the Township filed an Answer with New Matter to the 2015 Petition. The Township contended that it is not the owner of the bridge in question and therefore cannot apply for funding for the bridge. The Township also argued that maintenance and replacement, if necessary, is the responsibility of CSX. In its New Matter, the Township argued that maintenance responsibilities have been assigned via the 1988 Order and thus the relief requested in the 2015 Petition is barred by the doctrine of *res judicata*. The Township requested that the Commission deny the Petition.

The Commission scheduled a field investigation for March 12, 2015, in this matter. The field investigation was cancelled, at the request of the Pennsylvania Department of Transportation ("PennDot"), to permit time for the Township to conduct a road connectivity study.

On March 13, 2015, CSX filed a Reply to the Township's New Matter. CSX admitted that it had current maintenance responsibilities over the bridge but denied

¹ The Commission assigned maintenance responsibility for the bridge at issue to CSX by Commission Order, entered October 31, 1988, at Docket No. I-870042 ("1988 Order").

² This Petition will be referred to as the "2015 Petition" in this Recommended Decision.

that the doctrine of *res judicata* applied to the 2015 Petition, noting that the Commission may amend any Order made by it (citing to 66 Pa.C.S. § 703(g) and 52 Pa. Code. § 5.572(d)).

On January 25, 2024, CSX filed a Petition to Assign Proceeding to Office of Administrative Law Judge for Scheduling of a Hearing.³ CSX asserted that nothing has been done to advance any planning to address the inevitable bridge failure in the next few years, despite CSX efforts to engage the parties in settlement discussions. CSX requested that this matter be assigned to the Commission’s Office of Administrative Law Judge for the purposes of holding evidentiary hearings. CSX reiterated its position that maintenance responsibility for the bridge be reassigned from it to the Township and/or Erie County.⁴ CSX referenced the 2015 Petition in the 2024 Petition and included the 2015 Petition as an attachment. Also attached to the 2024 Petition were the results of the connectivity study for which the March 12, 2015, field investigation was cancelled.

On February 13, 2024, the Township filed an Answer with New Matter to the 2024 Petition. The Township argued that maintenance responsibility over the bridge was decided in the 1988 Order and as such CSX’s 2015 Petition is barred by the doctrine of *res judicata*. The Township also argued that it is not the owner of the bridge and thus cannot obtain funding for the bridge’s replacement.

On February 19, 2024, CSX filed a Reply to the Township’s New Matter to the 2024 Petition. CSX argued that the Township is the owner of the bridge and that the Township, or Erie County, are the entities that must seek funding for its replacement.

³ This Petition will be referred to as the “2024 Petition” in this Initial Decision.

⁴ The Certificate of Service indicates that this Petition was served on Erie County, via its Solicitor.

On March 15, 2024, a Prehearing Conference Order was issued, assigning this matter to the undersigned and scheduling a prehearing conference for April 17, 2024.

On April 17, 2024, the prehearing conference was held as scheduled. CSX, PennDot, and the Township participated in the conference. Various procedural matters were discussed during the conference. Following the conference, my Interim Order #1 was issued which directed the parties to file a Status Report in which they were to propose a litigation schedule.

On April 30, 2024, CSX filed a Status Report proposing a litigation schedule agreed to by CSX, the Township, PennDot, and Erie County.

On May 1, 2024, my Scheduling Order was issued adopting the litigation schedule proposed by the parties in the Status Report.

Also on May 1, 2024, Attorney Speros formally entered his appearance on behalf of Erie.

On July 12, 2024, the parties submitted direct testimony with exhibits pursuant to the Scheduling Order.

On August 2, 2024, a Hearing Notice was issued formally scheduling evidentiary hearings for August 20 and 21, 2024.

On August 12, 2024, CSX filed a Motion to Continue Hearing. CSX sought a 120-day continuance of the hearings so CSX could conduct a further engineering examination of the current condition of the bridge in question. CSX represented that all parties agreed with continuance of the hearings.

On August 19, 2024, a Cancellation Notice was issued, cancelling the August 20 and 21, 2024 hearings in this matter.

Also on August 19, 2024, my Interim Order #2 was issued, directing the parties to file a Status Report in this proceeding by December 17, 2024.

On December 17, 2024, the parties filed a Status Report indicating that CSX completed an engineering examination of the bridge and requesting that I schedule a status conference.

On December 20, 2024, the Commission issued a Telephonic Status Conference Notice scheduling a status conference on January 29, 2025.

On December 30, 2024, the Commission issued a Rescheduled Telephonic Status Conference Notice rescheduling the January 29, 2025, status conference to January 28, 2025.

On January 28, 2025, the status conference was held as scheduled. CSX, PennDot, the Township, and Erie County participated in the conference. During this conference, the parties requested 60 days to discuss resolution of this matter.⁵

On January 29, 2025, the Commission issued my Interim Order #3, directing that the parties file a Status Report on or before March 28, 2025.

On March 28, 2025, the parties filed a Status Report requesting an additional 60 days to discuss resolution of this matter.

⁵ No court reporter appeared for this conference; therefore, the conference was held off the record.

On April 1, 2025, my Interim Order #4 was issued, directing that the parties file a Status Report on or before May 30, 2025.

On May 30, 2025, CSX filed a Status Report, explaining that the parties have been unable to come to a resolution of this case and requesting that the parties be ordered to submit an agreed upon litigation schedule by June 27, 2025.

On May 30, 2025, the Township filed a Status Report, asserting that CSX's request for relief in this proceeding has changed since the filing of the 2024 Petition. Specifically, the Township asserted that CSX now seeks to abolish the bridge. The Township requested that CSX be ordered to amend its 2024 Petition or that a status conference be scheduled.

On June 13, 2025, the Commission issued a Further Telephonic Status Conference Notice scheduling a further status conference for July 21, 2025.

On July 21, 2025, the further status conference was held as scheduled. CSX, the Township, and Erie County appeared for the conference. During the conference, CSX indicated that it was now seeking to abolish the bridge in question. I directed CSX to file an amended Petition to include this change in relief.

On October 1, 2025, CSX filed a Petition to Convert Proceeding to an Application for the Abolition of the Bort Road Crossing.

On October 9, 2025, Arrowhead Wine Cellars, Inc. filed a Letter requesting to be added as a party of record to this proceeding. Arrowhead explained that it would be negatively impacted by abolition of the bridge.⁶

On October 27, 2025, by email, I informed the parties that, after further consideration, the preferable method of proceeding in this matter would be for CSX to file an application to abandon at a separate docket. Subsequently that same day, CSX informed me that it had been approached with a settlement offer and requested that the matter be held in abeyance for the time being.

On March 20, 2026, the Commission issued my Order formally holding this matter in abeyance and directing that CSX file a Status Report by April 17, 2026.

On April 17, 2026, CSX filed a Motion to Withdraw Petition to Reassign Maintenance Responsibilities (“Motion”), requesting to withdraw its 2015 Petition. In its Motion to Withdraw Petition to Reassign Maintenance Responsibilities, CSX indicates that the Township, Erie County, and PennDot are in concurrence with the Motion.

The record was closed on April 17, 2026.

For the reasons stated below, the undersigned recommends that the Commission grant the Motion.

⁶ This letter was not served upon the undersigned or upon any party to this proceeding and is insufficient to grant Arrowhead party status in this case. The Commission’s Secretary’s Bureau, however, added Arrowhead as a party of record to this case. Arrowhead, therefore, will be served with this Recommended Decision.

FINDINGS OF FACT

1. The parties to this proceeding are CSX Transportation, Inc., North East Township, Erie County, and the Pennsylvania Department of Transportation.

2. On January 29, 2015, CSX filed a Petition requesting that maintenance responsibility for the bridge structure where Bort Road (T-270) crosses above CSX's tracks in Northeast Township, Erie County be reassigned from it to the Township.

3. On February 23, 2015, the Township filed an Answer with New Matter to the 2015 Petition.

4. On January 25, 2024, CSX filed a Petition seeking to assign the 2015 Petition to the Office of Administrative Law Judge for the purposes of holding evidentiary hearings.

5. On February 13, 2024, the Township filed an Answer with New Matter to the 2024 Petition.

6. On July 21, 2025, a status conference was held, whereby CSX, the Township, and Erie County participated.

7. At the July 21, 2025, status conference, CSX indicated that it was now seeking to abolish the crossing at issue.

8. During the July 21, 2025, status conference, I directed CSX to file an amended Petition that included its request to abolish the crossing at issue.

9. On October 1, 2025, CSX filed a Petition to Convert Proceeding to an Application for the Abolition of the Bort Road Crossing.

10. On October 27, 2025, by email, I informed the parties that, after further consideration, the preferable method of proceeding in this matter would be for CSX to file an application to abandon at a separate docket.

11. On October 27, 2025, by email, CSX informed me that it had been approached with a settlement offer and requested that the matter be held in abeyance.

12. On March 20, 2026, the Commission issued my Order formally holding this matter in abeyance and directing that CSX file a Status Report by April 17, 2026.

13. On April 17, 2026, CSX filed a Motion to Withdraw Petition to Reassign Maintenance Responsibilities.

14. In its Motion to Withdraw Petition to Reassign Maintenance Responsibilities, CSX agrees to maintain the bridge structure, pursuant to the 1988 Order, expressing its belief that this is the best course of action.

15. In its Motion to Withdraw Petition to Reassign Maintenance Responsibilities, CSX requests to withdraw its 2015 Petition and to have this matter closed.

16. In its Motion to Withdraw Petition to Reassign Maintenance Responsibilities, CSX indicates that the Township, Erie County, and PennDot were in concurrence with the Motion.

DISCUSSION

In this matter, CSX seeks to withdraw its 2015 Petition. Commission regulations address the withdrawal of pleadings in a contested proceeding in relevant part as follows:

§ 5.94. Withdrawal of pleadings in a contested proceeding.

- (a) ... a party desiring to withdraw a pleading in a contested proceeding may file a petition for leave to withdraw the appropriate document with the Commission and serve it upon the other parties. The petition must set forth the reasons for the withdrawal. A party may object to the petition within 10 days of service. After considering the petition, an objection thereto and the public interest, the presiding officer or the Commission will determine whether the withdrawal will be permitted.

52 Pa. Code § 5.94(a).

A “pleading” is defined as “[a]n application, complaint, **petition**, answer, motion, preliminary objection, protest, reply, order to show cause, new matter and reply to new matter or other similar document filed in a formal proceeding.” 52 Pa. Code § 1.8 (emphasis added). The 2015 Petition is a pleading which became contested once the Township filed an Answer with New Matter to the petition.

In 1988, the Commission by Order assigned maintenance responsibility for a bridge structure in Erie County to CSX. CSX filed the 2015 Petition seeking to reassign its maintenance responsibility to the Township. In its Motion, CSX agrees to maintain the bridge structure, pursuant to the 1988 Order, expressing its belief that this is the best course of action. CSX therefore requests to withdraw its 2015 Petition and to have this matter closed. CSX indicates that the Township, Eric County, and PennDot are all in concurrence with the Motion.

Pursuant to the Commission's regulations, I must consider any objection to the Motion to Withdraw and the public interest when determining whether the Motion will be granted. No party to this proceeding objected to the Motion to Withdraw.⁷ As it relates to the public interest, it would not be in the public interest to have the parties in this matter further litigate the 2015 Petition. The parties have spent years attempting to resolve the issue raised in the 2015 Petition, and now CSX no longer wishes to pursue the matter. Further, CSX agrees to maintain the bridge structure, which will benefit the public through continued access to a safe and reliable bridge. Granting the Motion to Withdraw therefore eliminates the need for further litigation which in turn will save the parties and the Commission the time and money that would be incurred in further litigating this case.

For the above reasons, the undersigned recommends that the Commission grant CSX's Motion.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. § 701.
2. A party desiring to withdraw a pleading in a contested proceeding may file a petition for leave to withdraw the appropriate document with the Commission and serve it upon other parties. 52 Pa. Code § 5.94(a).

⁷ Arrowhead is not a party to this proceeding and therefore was not provided with the opportunity to provide its position on the Motion. I note however, that Arrowhead is opposed to abolishment of the bridge structure and through its Motion, CSX agrees not to abolish the bridge but to maintain the bridge.

3. A petition to withdraw a pleading in a contested proceeding must set forth the reasons for the withdrawal and that a party may object to the petition within 10 days. 52 Pa. Code § 5.94(a).

4. After considering a petition to withdraw a pleading in a contested proceeding, any objection thereto and the public interest, the presiding officer or the Commission will determine whether the withdrawal will be permitted. 52 Pa. Code § 5.94(a).

5. It is in the public interest to allow CSX to withdraw its Petition. 52 Pa. Code § 5.94.

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Motion to Withdraw Petition to Reassign Maintenance Responsibilities, filed by CSX Transportation Inc., at Docket No. P-2015-2465847, be granted.

2. That the Petition of CSX Transportation Inc. to reassign maintenance responsibility for the bridge structure where Bort Road (T-270) crosses above CSX Transportation Inc.'s tracks (DOT#524035A) in Northeast Township, Erie County, at Docket No. P-2015-2465847, be withdrawn.

