

ORIGINAL
Before the

PENNSYLVANIA PUBLIC UTILITY COMMISSION

* * * * *

MICROFILMED

In re: Application of City of :
Philadelphia for approval (1) :
of the alteration and recon- :
struction of the crossing where :
a bridge carrying Spring Garden :
Street (L. R. 67002) East of :
31st Street crosses above the :
grade of the tracks of The :
Pennsylvania Railroad Company :
and under the grade of the :
tracks of The Pennsylvania :
Railroad High Line West of the :
Schuylkill Expressway (L. R. :
67057) in the City of Phila- :
delphia; (2) the allocation :
of the cost and expense inci- :
dent thereto; and (3) exemption :
from the requirements of Part :
III of the Commission's Rail- :
road Regulations. :

APPLICATION

DOCKET

NO. A89603

1962

TO THE HONORABLE, THE MEMBERS OF THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION:

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NOV 11 8 57 AM '62

1. The name and address of the applicant is The City of Philadelphia, Philadelphia 7, Pennsylvania.
2. The name and address of applicant's attorneys is David L. German, Jr., Assistant City Solicitor and David Berger, City Solicitor, 703 City Hall Annex, Philadelphia 7, Pennsylvania.
3. Applicant is a municipal corporation of the first class of the Commonwealth of Pennsylvania engaged in the government and administration of the affairs of the inhabitants of the City of Philadelphia.
4. By this application, approval is sought for the alteration and reconstruction of the crossing where a bridge carrying Spring Garden Street east of 31st Street crosses above the grade of

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APPLICATION DOCKET
NOV 20 1962
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the tracks of The Pennsylvania Railroad Company and under the grade of the tracks of the Pennsylvania Railroad High Line West of the Schuylkill Expressway in the City of Philadelphia; for the allocation of costs and expenses incident thereto, and for exemption from the requirements of Part III of the Commission's Railroad Regulations; a copy of the plans for the said improvement being attached hereto and marked Exhibit "A".

5. The written approval of the Art Commission of the City of Philadelphia dated October 11, 1962, is attached hereto and marked Exhibit "B".

6. That the only public utility companies and other parties affected by the construction of the improvement hereinbefore referred to are:

Philadelphia Electric Company
c/o R. B. Terry, Technical Assistant
2301 Market Street
Philadelphia 3, Pennsylvania

Philadelphia Transportation Company
c/o Victor F. Rebok, Special Agent
200 W. Wyoming Avenue
Philadelphia 40, Pennsylvania

The Pennsylvania Railroad Company
c/o John W. Wallenius, Area Engineer
1642 Transportation Building
Six Penn Center Plaza
Philadelphia 4, Pennsylvania

Pennsylvania Department of Highways
North Office Building
Harrisburg, Pennsylvania

7. That the alteration and reconstruction of the crossing above referred to is necessary for the reason that the existing structure, which was built in 1876, is in poor condition. That the existing structure is very seriously deteriorated and its present loading is restricted to 13 tons. Prior to electrification of the Pennsylvania Railroad lines operating beneath the structure, steam

locomotives previously in use so corroded the steel of the structure that it is now badly deteriorated and that there is no possible way of making additional repairs which would permit the continued use of this structure under modern traffic conditions.

8. Exemption from the requirements of Part III of the Commission's Railroad Regulations is necessary and desirable in this matter since the structure cannot be raised as the grades are fixed at the west abutment and on the Schuylkill Expressway span to the east. In addition, the proposed viaduct passes under the Pennsylvania Railroad High Line and this existing clearance is thirteen (13) feet, six (6) inches minimum, which also is substandard with respect to highway clearance.

9. That a conference of all parties in interest should be held to discuss the proposed improvement.

10. That the alteration and reconstruction of the crossing above referred to is necessary and proper for the safety, accommodation and convenience of the public.

WHEREFORE, applicant respectfully requests the Commission to issue an order evidencing its approval of the alteration and reconstruction of the crossing where a bridge carrying Spring Garden Street east of 31st Street crosses above the grade of the tracks of The Pennsylvania Railroad Company and under the grade of the tracks of the Pennsylvania Railroad High Line west of the Schuylkill Expressway in the City of Philadelphia, as hereinbefore set forth; for the allocation of costs and expenses incident thereto; and exemption from the requirements of Part III of the Commission's Railroad Regulations.

And it will ever pray, etc.

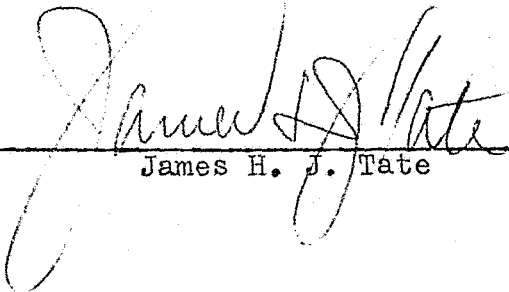
THE CITY OF PHILADELPHIA

BY: 

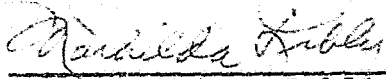
Mayor

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF PHILADELPHIA : ss

JAMES H. J. TATE, being duly sworn according to law, deposes and says that he is Mayor of the City of Philadelphia; that he is authorized to and does make this affidavit for it; and that the facts set forth above are true and correct to the best of his knowledge, information and belief and he expects the said The City of Philadelphia to be able to prove the same at the hearing hereof.


James H. J. Tate

Sworn to and Subscribed :
before me this 9th day :
of November, A.D. 1962. :


Notary Public

Notary Public, Philadelphia, Pennsylvania
My Commission Expires Feb 2, 1963

FILE

CONTINUED

ART COMMISSION

813' City Hall Annex

Philadelphia 7, Pa.

October 11, 1962

Re: Submission #7342
Spring Garden Street Bridge
over Schuylkill River - west
approach over Pennsylvania RR.

Mr. David M. Smallwood
Commissioner
Department of Streets
904 City Hall Annex
Philadelphia 7, Penna.

Dear Mr. Smallwood:

The Art Commission has approved the working drawings for the above submission.

A set of the above plans, identified as exhibits Nos. 7342-C to X, inclusive, endorsed with the action taken by the Commission, is returned.

Sincerely,

ART COMMISSION

s/ R. C. Roberts
R. C. Roberts,
Executive Secretary

r/jl

enclosure

cc - Pennsylvania Department of Highways
- L. Neiman, Chief Bridge Engineer, Dept. of Streets

EXHIBIT B

Before the
PENNSYLVANIA PUBLIC UTILITY COM-
MISSION

In re: Application of City of Philadelphia for approval of (1) the alteration and reconstruction of the crossing where a bridge carrying Spring Garden Street (L. R. 67002) East of 31st Street crosses above the grade of the tracks of The Pennsylvania Railroad Company and under the grade of the tracks of The Pennsylvania Railroad High Line West of the Schuylkill Expressway (L.R.67057) in the City of Philadelphia; (2) the allocation of the cost and expense incident thereto; and (3) exemption from the requirements of Part III of the Commission's Railroad Regulations

**LAW DEPARTMENT
CITY OF PHILADELPHIA**

**DAVID BERGER
CITY SOLICITOR**

**703 CITY HALL ANNEX
PHILADELPHIA 7, PA.**

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

* * * * *

In re: Application of City of :
Philadelphia for approval of :
(1) the alteration and recon- :
struction of the crossing :
where a bridge carrying Spring : APPLICATION
Garden Street (L. R. 67002) :
East of 31st Street crosses : DOCKET
above the grade of the tracks :
of The Pennsylvania Railroad : NO. **A89803**
Company and under the grade :
of the tracks of The Pennsyl- :
vania Railroad High Line West : 1962
of the Schuylkill Expressway :
(L. R. 67057) in the City of :
Philadelphia; (2) the alloca- :
tion of the cost and expense :
incident thereto; and (3) :
exemption from the require- :
ments of Part III of the Com- :
mission's Railroad Regulations:

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA :
CITY AND COUNTY OF PHILADELPHIA : ss

HELEN M. BURKE, being duly sworn according to law, deposes and says that on November 9, 1962 she caused copies of the Application of the City of Philadelphia in the above matter to be served upon the following by mailing true and correct copies of same:

Philadelphia Electric Company
c/o R. B. Terry, Technical Assistant
2301 Market Street
Philadelphia 3, Pennsylvania

Philadelphia Transportation Company
c/o Victor F. Rebok, Special Agent
200 W. Wyoming Avenue
Philadelphia 40, Pennsylvania

NOV 14 8 57 AM '62

NOV 20 1962

The Pennsylvania Railroad Company
c/o John W. Wallenius, Area Engineer
1642 Transportation Building
Six Penn Center Plaza
Philadelphia 4, Pennsylvania

Pennsylvania Department of Highways
North Office Building
Harrisburg, Pennsylvania

Helen M. Burke

Sworn to and Subscribed :
before me this 9th day :
of November, A. D. 1962. :

Margherita Libby
Notary Public

Notary Public for Pennsylvania
My Commission Expires 1965

AFFIDAVIT OF SERVICE

**LAW DEPARTMENT
CITY OF PHILADELPHIA**

**DAVID BERGER
CITY SOLICITOR**

**703 CITY HALL ANNEX
PHILADELPHIA 7, PA.**

Before the

PENNSYLVANIA PUBLIC UTILITY COMMISSION

* * * * *

In re: Application of the City :
of Philadelphia for approval of :
(1) the alteration and recon- :
struction of the crossing where :
a bridge carrying Spring Garden :
Street (L.R. 67002) East of 31st :
Street crosses above the grade of :
the tracks of The Pennsylvania :
Railroad Company and under the :
grade of the tracks of The Penn- :
sylvania Railroad High Line West :
of the Schuylkill Expressway :
(L. R. 67057) in the City of :
Philadelphia; (2) the allocation :
of the cost and expense incident :
thereto; and (3) exemption from :
the requirements of Part III of :
the Commission's Railroad Regula- :
tions :

APPLICATION
DOCKET
NO. A.89603
1963

RECEIVED
MAR 13 11 16 AM '63
SUBJECT MATTER SERVICE
PUBLIC UTILITY
COMMISSION

AFFIDAVIT OF SERVICE
PETITIONER'S EXHIBIT NO. 9

COMMONWEALTH OF PENNSYLVANIA :
ss
CITY AND COUNTY OF PHILADELPHIA:

FAYE EISMAN, being duly sworn according to law, deposes and says that on March 8, 1963 she caused copies of Petitioner's Exhibit No. 9 of the City of Philadelphia in the above matter to be served upon the following by mailing true and correct copies of same:

Philadelphia Electric Company
c/o R. B. Terry, Technical Assistant
2301 Market Street
Philadelphia 3, Pennsylvania

Philadelphia Transportation Company
c/o Victor F. Rebok, Special Agent
200 W. Wyoming Avenue
Philadelphia 40, Pennsylvania

RECORD
FOLDER

O. K.
R. C. B.
FILE

The Pennsylvania Railroad Company
c/o John W. Wallenius, Area Engineer
1642 Transportation Building
Six Penn Center Plaza
Philadelphia 4, Pennsylvania

Pennsylvania Department of Highways
North Office Building
Harrisburg, Pennsylvania

Brotherhood of Railroad Trainmen
c/o C. J. Sludden
812 Blackstone Building
Harrisburg, Pa.

Jaye Eisman

Sworn to and Subscribed :
before me this 8th day :
of March, A. D., 1963. :

Arno M. Welby
Notary Public

Notary Public
My Commission Expires 12/31/64

Before the

PENNSYLVANIA PUBLIC UTILITY COMMISSION

A. 89603

In re: Application of the City of Philadelphia for approval of (1) the alteration and reconstruction of the crossing where a bridge carrying Spring Garden Street (L.R.67002) East of 31st Street crosses above the grade of the tracks of The Pennsylvania Railroad Company and under the grade of the tracks of The Pennsylvania Railroad High Line West of the Schuylkill Expressway (L.R.67057) in the City of Philadelphia; (2) the allocation of the cost and expense incident thereto; and (3) exemption from the requirements of Part III of the Commission's Railroad Regulations.

AFFIDAVIT OF SERVICE

PETITIONER'S EXHIBIT NO. 9

LAW DEPARTMENT
CITY OF PHILADELPHIA

EDWARD G. BAUER, Jr.
CITY SOLICITOR
703 CITY HALL ANNEX
PHILADELPHIA 7, PA.

Before the

PENNSYLVANIA PUBLIC UTILITY COMMISSION

* * * * *

In re: Application of City of Philadelphia for approval (1) of the alteration and reconstruction of the crossing where a bridge carrying Spring Garden Street (L. R. 67002) East of 31st Street crosses above the grade of the tracks of The Pennsylvania Railroad Company and under the grade of the tracks of The Pennsylvania Railroad High Line West of the Schuylkill Expressway (L. R. 67057) in the City of Philadelphia; (2) the allocation of the cost and expense incident thereto; and (3) exemption from the requirements of Part III of the Commission's Railroad Regulations.

APPLICATION

DOCKET

No. A.89603

1963

RECEIVED
MAR 13 11 15 AM '63
OFFICE OF THE SECRETARY
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION FOR INTERIM ORDER

TO THE HONORABLE, THE MEMBERS OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

1. Your petitioner is counsel for City of Philadelphia, the applicant in the above matter.
2. That a formal hearing was held in connection with the above applicant on February 13, 1963.
3. That at the termination of said formal hearing it was agreed by all the parties involved that the record remain open for the filing of a late filed exhibit to be marked Applicant's Exhibit No. 9 having to do with the possible change of the plans relating to the question of lateral clearance between a pier supporting the superstructure of which it is desired to replace and the nearest railroad track. The said late filed exhibit has this day been forwarded to the Secretary of your Honorable Commission and copies forwarded to all parties in interest.

That at the termination of said formal hearing counsel for the Philadelphia Transportation Company asked that briefs be filed on the question of the right of the Philadelphia Transportation Company to introduce evidence of consequential damages as a result of this proposed improvement. Since said formal

hearing, counsel for Philadelphia Transportation Company have filed a petition with your Honorable Commission and asked for a re-hearing on the basis of the examiners ruling that evidence of consequential damages to their company as a result of said improvement was inadmissible.

4. In connection with the above improvement, bids have been asked for by the City of Philadelphia and will be received on March 21, 1963. Approximately 10 days thereafter, the contract for the work called for by the improvement, will be awarded to the successful bidder and it is hoped that construction can start shortly thereafter.

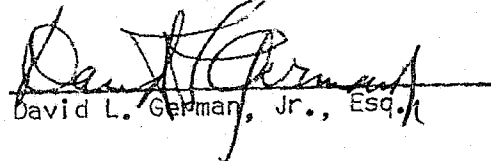
5. That the present superstructure which it is desired to replace, is in such bad condition, having been erected in 1876, that the safety of the travelling public requires its replacement at the earliest possible moment. Copies of this petition have been forwarded to all parties in interest with the request that they promptly notify your Honorable Commission of their acquiescence in your Honorable Commissions' entering an Interim Order for construction to proceed in the above matter.

WHEREFORE, your petitioner respectfully requests your Honorable Commission to enter an Interim Order which will authorize the applicant to proceed with the construction of the proposed improvement pending the decision of any legal issues raised by the Philadelphia Transportation Company.

And your petitioner will ever pray.

COUNSEL FOR CITY OF PHILADELPHIA,
APPLICANT

BY:


David L. German, Jr., Esq.

COMMONWEALTH OF PENNSYLVANIA :

SS

COUNTY OF PHILADELPHIA :

DAVID L. GERMAN, JR. being duly sworn according to law deposes and says that he is counsel for the City of Philadelphia, applicant in the above matter and that he is authorized to and does make this affidavit for it and on its behalf and that the facts set forth therein are true and correct to the best of his knowledge and belief.

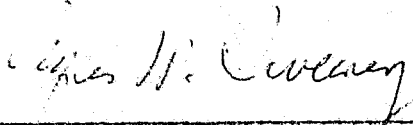


David L. German, Jr., Esq.

Sworn to and Subscribed :

before me this , day :

of *12* A.D. 1963 :



Notary Public

(MISS) AGNES M. SWEENEY
Notary Public Philadelphia, Philadelphia Co.
My Commission Expires February 24, 1964

Before the
PENNSYLVANIA PUBLIC UTILITY
COMMISSION

In re: Application of City of Philadelphia for approval of (1) the alteration and reconstruction of the crossing where a bridge carrying Spring Garden Street (L. R. 67002) East of 31st Street crosses above the grade of the tracks of The Pennsylvania Railroad Company and under the grade of the tracks of The Pennsylvania Railroad High Line West of the Schuylkill Expressway (L. R. 67057) in the City of Philadelphia; (2) the allocation of the cost and expense incident thereto; and (3) exemption from the requirements of Part III of the Commission's Railroad Regulations

PETITION FOR INTERIM ORDER

LAW DEPARTMENT
CITY OF PHILADELPHIA
EDWARD G. BAUER, Jr.
CITY SOLICITOR
703 CITY HALL ANNEX
PHILADELPHIA 7, PA.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

* * * * *

In re: Application of City of Philadelphia for approval of (1) the alteration and reconstruction of the crossing where a bridge carrying Spring Garden Street (L.R. 67002) East of 31st Street crosses above the grade of the tracks of The Pennsylvania Railroad Company and under the grade of the tracks of The Pennsylvania Railroad High Line West of the Schuylkill Expressway (L.R. 67057) in the City of Philadelphia; (2) the allocation of the cost and expense incident thereto; and (3) exemption from the requirements of Part III of the Commission's Railroad Regulations :

APPLICATION

DOCKET

NO. A.89603

1963

RECEIVED
 MAR 13 11 25 AM '63
 PUBLIC UTILITY
 COMMISSION

AFFIDAVIT OF SERVICE

PETITION FOR INTERIM ORDER

COMMONWEALTH OF PENNSYLVANIA :
 : ss
 CITY AND COUNTY OF PHILADELPHIA :

FAYE EISMAN, being duly sworn according to law, deposes and says that on March 8, 1963 she caused copies of the Petition for Interim Order of the City of Philadelphia in the above matter to be served upon the following by mailing true and correct copies of same:

Philadelphia Electric Company
 c/o R. B. Terry, Technical Assistant
 2301 Market Street
 Philadelphia 3, Pennsylvania

Philadelphia Transportation Company
 c/o Victor F. Rebok, Special Agent
 200 W. Wyoming Avenue
 Philadelphia 40, Pennsylvania

The Pennsylvania Railroad Company
c/o John W. Wallenius, Area Engineer
1642 Transportation Building
Six Penn Center Plaza
Philadelphia 4, Pennsylvania

Pennsylvania Department of Highways
North Office Building
Harrisburg, Pennsylvania

Brotherhood of Railroad Trainmen
c/o C. J. Sludden
812 Blackstone Building
Harrisburg, Pa.

Jaye Eisman

Sworn to and Subscribed :
before me this 8th day :
of March, A. D., 1963. :

James D. Seaman
Notary Public

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

A. 89603

In re: Application of City of Philadelphia for approval of (1) the alteration and reconstruction of the crossing where a bridge carrying Spring Garden Street (L.R. 67002) East of 31st Street crosses above the grade of the tracks of The Pennsylvania Railroad Company and under the grade of the tracks of The Pennsylvania Railroad High Line West of the Schuylkill Expressway (L.R. 67057) in the City of Philadelphia; (2) the allocation of the cost and expense incident thereto; and (3) exemption from the requirements of Part III of the Commission's Railroad Regulations.

AFFIDAVIT OF SERVICE

PETITION FOR INTERIM ORDER

LAW DEPARTMENT
CITY OF PHILADELPHIA
EDWARD G. BAUER, Jr.
CITY SOLICITOR
703 CITY HALL ANNEX
PHILADELPHIA 7, PA.

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RE: APPLICATION OF THE CITY OF PHILADELPHIA FOR APPROVAL :
OF (1) THE ALTERATION AND RECONSTRUCTION OF THE CROSSING :
WHERE A BRIDGE CARRYING SPRING GARDEN STREET (STATE HIGH- :
WAY ROUTE 67002) CROSSES ABOVE THE GRADE OF THE TRACKS OF :
THE PENNSYLVANIA RAILROAD COMPANY AND BELOW THE GRADE OF : DOCKET
THE TRACKS OF THE PENNSYLVANIA RAILROAD COMPANY HIGH LINE, :
WEST OF THE SCHUYLKILL EXPRESSWAY, IN THE CITY OF PHILADEL- : A. 89603
PHIA, (2) THE ALLOCATION OF THE COSTS AND EXPENSES INCIDENT :
THERE TO AND (3) AN EXEMPTION FROM THE REQUIREMENTS OF PART :
3 OF THE COMMISSION'S RAILROAD REGULATIONS. :

PETITION OF PHILADELPHIA TRANSPORTATION
COMPANY FOR REHEARING

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

RECEIVED
MAR 6 10 37 AM '63
PENNSYLVANIA PUBLIC UTILITY COMMISSION

1. Petitioner, Philadelphia Transportation Company, a party to and protestant in the above-captioned cause.
2. Hearing in the above-captioned cause was held on February 13, 1963 before the Honorable Claude O. Lanciano, Hearing Examiner, at Philadelphia, Pa.
3. At the said hearing applicant, the City of Philadelphia, sought approval of the alteration and reconstruction of the crossing where a bridge carrying Spring Garden Street (State Highway Route 67002) crosses above the grade of the tracks of the Pennsylvania Railroad Company and below the grade of the tracks of the Pennsylvania

MAR 13 1963
[Handwritten signature]

Railroad Company High Line west of the Schuylkill Expressway in the City of Philadelphia, the allocation of the costs and expenses there-
to, and an exemption from the requirements of Part 3 of your Honorable
Commission's Railroad Regulations.

4. Your Petitioner, Philadelphia Transportation Company, at said hearing presented evidence of the effect of the said proposed alteration and reconstruction upon your Petitioner's Bus Route 43 which presently crosses the bridge carrying Spring Garden Street, in order to provide a factual basis for your Honorable Commission to allocate the costs incurred by your Petitioner as a result of the detour and relocation of Bus Route 43 around the bridge carrying Spring Garden Street during the period of alteration upon the applicant, City of Philadelphia and the Department of Highways of the Commonwealth.

5. During said hearing your Petitioner offered testimony regarding the increased costs to your Petitioner resulting from the required detour and relocation of Bus Route 43, but said offer was rejected by the Hearing Examiner. The notes of testimony setting forth your Petitioner's offer and the said rejection by the Examiner are as follows: (N.T. 44-45; 49-50)

"Q. What will be the increased cost to P.T.C.
as a result of the detour?"

"MR. GERMAN: Objected to.

"THE EXAMINER: Sustained" . . .

"Q. Mr. Joram, what will be the increased number of labor hours which will be incurred as a result of the detour?

"A. 21.1 hours on weekends. [1]

"MR. GERMAN: Objected to and ask the answer be stricken, Mr. Examiner.

"MR. COUGHLIN: On what grounds?

"THE EXAMINER: You are doing with your left hand what I just declined to let you do with your right hand.

I will sustain the objection and grant you a motion to strike.

BY MR. COUGHLIN:

"Q. How much increased fuel will be used, Mr. Joram, because of the detour?

"MR. GERMAN: Objected to.

"THE EXAMINER: Sustained; exception.

"BY MR. COUGHLIN:

"Q. How much increased maintenance will be required because of the detour?

"MR. GERMAN: Objected to.

"THE EXAMINER: Sustained; exception.

[1] Petitioner herewith respectfully requests your Honorable Commission to correct the notes of testimony changing the witness' answer from "A. 21.1 hours on weekends" to read "A. 21.1 hours on weekdays; on weekends . . .". Said correction is necessitated by an error in transcribing the Notes of Testimony.

BY MR. COUGHLIN:

"Q. How much increased oil consumption will P.T.C. incur because of the detour?"

"MR. GERMAN: Objected to.

"THE EXAMINER: Sustained; exception.

The reason for all these rulings, of course, is identical.

"MR. COUGHLIN: I understand that, Mr. Examiner."

6. In compliance with Rule 54(b) of your Honorable Commission's Rules of Practice, your Petitioner avers that the evidence to be offered by your Petitioner at a further hearing, if allowed, will show the increased costs to your Petitioner as a result of the required detour and relocation of Bus Route 43, as follows:

- (a) increased labor and maintenance costs as a result of the proposed alteration - \$469.00 per week;
- (b) increased fuel and oil costs as a result of the proposed alteration - \$76.00 per week;
- (c) increased costs in wear on tires as a result of the proposed alteration - \$16.00 per week;
- (d) increased costs resulting from increased injuries and damages as a result of the proposed alteration - \$72.00 per week.

7. On information and belief your Petitioner avers that in addition to the 6 to 8 months during which the bridge carrying Spring Garden Street will be impassable to vehicular traffic as revealed by the Notes of Testimony, said bridge will be impassable to vehicular traffic for a further 9 months as a result of alteration and reconstruction of the eastern approach to said bridge.

8. The Examiner's refusal to permit your Petitioner to introduce evidence of increased costs to your Petitioner as a result of the required detouring and relocation of Bus Route 43 was in error in that said evidence was relevant and material to your Honorable Commission's right to allocate said costs to the applicant, the City of Philadelphia and the Department of Highways of the Commonwealth under Sections 409 and 411 of the Public Utility Law (66 P.S. 1179, 1181).

WHEREFORE, your Petitioner, Philadelphia Transportation Company respectfully requests your Honorable Commission to issue its order requiring a rehearing so that your Petitioner may introduce therein its evidence of increased costs which will be incurred by your Petitioner as a result of the detour and relocation of Bus Route 43 required by the proposed alteration and reconstruction of the Bridge carrying Spring Garden street.

PHILADELPHIA TRANSPORTATION COMPANY

Signed and dated
This 27 day

By


Executive Vice President

Before the

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Application of the City of Philadelphia for approval of the alteration and reconstruction of the crossing where a bridge carrying Spring Garden Street (State Highway Route 67002) crosses above the grade of the tracks of The Pennsylvania Railroad Company and below the grade of the tracks of The Pennsylvania Railroad Company High Line, west of the Schuylkill Expressway, in the City of Philadelphia, (2) the allocation of the costs and expenses incident thereto and (3) an exemption from the requirements of Part 3 of the Commission's railroad regulations

DOCKET

A. 89603

RECEIVED
MAR 13 11 15 AM '63
RECORDS & COMMUNICATIONS SECTION
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA :
CITY OF PHILADELPHIA : ss

HELEN M. BURKE, being duly sworn according to law, deposes and says that on March 12, 1963 she caused copies of the Answer of City of Philadelphia, Applicant, to Petition of Philadelphia Transportation Company for Rehearing in the above matter to be served upon the following by mailing true and correct copies of same:

Philadelphia Electric Company
c/o R. B. Terry, Technical Assistant
2301 Market Street
Philadelphia 3, Pennsylvania

Philadelphia Transportation Company
c/o Victor F. Rebok, Special Agent
200 West Wyoming Avenue
Philadelphia 40, Pennsylvania

The Pennsylvania Railroad Company
c/o John W. Wallenius, Area Engineer
1642 Transportation Building
Six Penn Center Plaza
Philadelphia 4, Pennsylvania

Pennsylvania Department of Highways
North Office Building
Harrisburg, Pennsylvania

Brotherhood of Railroad Trainmen
c/o Mr. C. J. Sludden
812 Blackstone Building
Harrisburg, Pennsylvania

Allen M. Burke

Sworn to and Subscribed :
before me this 12th day :
of March, A. D. 1963. :

Allen M. Severy
Notary Public

Before the
PENNSYLVANIA PUBLIC UTILITY COM-
MISSION

A. 89603

Re: Application of the City of Philadelphia for approval of (1) the alteration and reconstruction of the crossing where a bridge carrying Spring Garden Street (State Highway Route 67002) crosses above the grade of the tracks of The Pennsylvania Railroad Company and below the grade of the tracks of The Pennsylvania Railroad Company High Line, west of the Schuylkill Expressway, in the City of Philadelphia, (2) the allocation of the costs and expenses incident thereto and (3) an exemption from the requirements of Part 3 of the Commission's railroad regulations.

AFFIDAVIT OF SERVICE OF ANSWER OF CITY OF PHILADELPHIA, APPLICANT, TO PETITION OF PHILADELPHIA TRANSPORTATION COMPANY FOR REHEARING.

LAW DEPARTMENT
CITY OF PHILADELPHIA
EDWARD G. BAUER, Jr.
CITY SOLICITOR
703 CITY HALL ANNEX
PHILADELPHIA 7, Pa.

Before the

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Application of the City of :
Philadelphia for approval of (1) :
the alteration and reconstruc- :
tion of the crossing where a :
bridge carrying Spring Garden :
Street (State Highway Route :
67002) crosses above the grade :
of the tracks of The Pennsyl- :
vania Railroad Company and below :
the grade of the tracks of The :
Pennsylvania Railroad Company :
High Line, west of the Schuyl- :
kill Expressway, in the City of :
Philadelphia, (2) the alloca- :
tion of the costs and expenses :
incident thereto and (3) an :
exemption from the requirements :
of Part 3 of the Commission's :
railroad regulations. :

DOCKET

A. 89603

RECEIVED
MAR 13 11 15 AM '63
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ANSWER OF CITY OF PHILADELPHIA, APPLICANT,
TO PETITION OF PHILADELPHIA TRANSPORTATION
COMPANY FOR REHEARING

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

The City of Philadelphia, applicant, by its attorneys, Edward G. Bauer, Jr., City Solicitor, and David L. German, Jr., Assistant City Solicitor, does hereby answer the averments contained in the Petition of Philadelphia Transportation Company for a Rehearing, in the following particulars, to wit:

1. It is admitted that Philadelphia Transportation Company is a party to the above proceeding but it is denied that Philadelphia Transportation Company has, either by pleading or at the formal hearing held on the above application, protested against or opposed the proposed improvement. In fact, by refer-

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ence to pages 50-51 of the Notes of Testimony, petitioner expressly stated that it had no objection to Commission's approving the application but made its approval conditional on reimbursement for consequential damages.

2. Admitted.

3. Admitted.

4. It is admitted that petitioner presented evidence at the formal hearing. City of Philadelphia has no knowledge of petitioner's underlying purpose in presenting such testimony.

5. The City of Philadelphia has no knowledge as to whether the Notes of Testimony are incorrect at the place specified by the petitioner. In any event, the correction requested by petitioner should not be allowed since the Examiner quite properly sustained the objection to the question, which prompted the reply which petitioner desires to change. City of Philadelphia avers that the words "you a" on page 50 of the Notes of Testimony are incorrectly transcribed and should read "your", and respectfully requests that such change be made.

6. City of Philadelphia has no knowledge of the facts set forth in this paragraph but avers that such testimony of consequential damages would be irrelevant, immaterial and inadmissible.

7. It is admitted that the bridge will be closed to traffic for a period of 6 to 8 months during the time bridge construction requested to be authorized by this proceeding is in progress. There is nothing in the testimony nor does the City know when it would want to undertake the rebuilding of what petitioner has referred to as the eastern approach to said

bridge or the time it would take to complete the same.

8. It is denied that the evidence excluded by the Examiner was relevant and material to your Honorable Commission's right to allocate costs to the applicant and to the Department of Highways of the Commonwealth of Pennsylvania. It is averred that your Honorable Commission has no jurisdiction under Sections 409 and 411 of the Public Utility Law to order either the City or the Commonwealth to pay consequential damages to a passenger carrying public utility company caused by detours, necessitated by improvements to public highways. This statement also applies to motorists and pedestrians, who also might sustain and claim consequential damages. Any other decision would vastly curtail necessary highway improvements and replacements. By reference to the Order of your Honorable Commission at A. 59145, Folder 104, incorporated at the hearing into the record of the above application, it clearly appears that your Honorable Commission had possible detours in mind when you authorized the operation of petitioner's Bus Route 43 and provided therein, on page 3 thereof, as follows:

"(c) That the rights, powers and privileges herein granted shall include the right to digress from the aforesaid route when temporarily closed by municipal or state authorities and official detours established by them; provided reports are filed with the Commission describing the detours. However, it includes no right to pick up or deliver passengers on these detours if certificated carriers have the right to render this service."

The bridge in question has been, with petitioner's knowledge, in bad condition for years and when petitioner was given permission to operate their bus route, the Order of your Honorable Commission put them on notice that detours might well be necessary from time to time.

WHEREFORE, it is respectfully submitted that the
Petition for a Rehearing in the above matter should be denied.

CITY OF PHILADELPHIA

BY ITS ATTORNEYS

Edward G. Bauer, Jr.
City Solicitor



David L. German, Jr.
Assistant City Solicitor

Before the
PENNSYLVANIA PUBLIC UTILITY COM-
MISSION

A. 89603

Re: Application of the City of Philadelphia for approval of (1) the alteration and reconstruction of the crossing where a bridge carrying Spring Garden Street (State Highway Route 67002) crosses above the grade of the tracks of The Pennsylvania Railroad Company and below the grade of the tracks of The Pennsylvania Railroad Company High Line, west of the Schuykill Expressway, in the City of Philadelphia, (2) the allocation of the costs and expenses incident thereto and (3) an exemption from the requirements of Part 3 of the Commission's railroad regulations.

ANSWER OF CITY OF PHILADELPHIA,
APPLICANT, TO PETITION OF PHILA-
DELPHIA TRANSPORTATION COMPANY
FOR REHEARING

LAW DEPARTMENT
CITY OF PHILADELPHIA

EDWARD G. BAUER, Jr.
CITY SOLICITOR

703 CITY HALL ANNEX
PHILADELPHIA 7, Pa.