

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. <u>REPORT DATE:</u> March 29, 1994	:	2. <u>BUREAU AGENDA NO.</u>
3. <u>BUREAU:</u> ALJ	:	APR-94-ALJ-61*
4. <u>SECTION(S):</u>	:	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u> Chief ALJ: Allison K. Turner Director: Ext. 7-6108 Supervisor:	:	April 7, 1994
7. <u>MONITOR:</u>	:	
8. <u>PERSON IN CHARGE:</u> ALJ Nguyen	:	
9. <u>DOCKET NO:</u> I-00830373	:	
10. (a) CAPTION (abbreviate if more than 4 lines)		
(b) Short summary of history & facts, documents & briefs		
(c) Recommendation		

(a) Investigation upon the Commission's own motion.

(b) On March 26, 1993, the Commission issued an Emergency Order directing the City of Philadelphia, at its initial cost and expense, to perform all work necessary to complete emergency repairs to the damaged above-grade bridge on 59th Street. The allocation of costs and other responsibilities was to be decided later. A hearing was held on July 1, 1993 for this purpose. On November 9, 1993, SEPTA moved for admission the Statement of SEPTA witness Michael DiCamillo and its attachments into the record. The motion was granted.

(c) ALJ Nguyen issued a Recommended Decision allocating the costs and other responsibilities at the crossing.

Recommended Decision served: February 3, 1994
 Exceptions filed by: PECO Energy Company, 2-17-94; Law Bureau, 2-23-94; City of Philadelphia, 2-22-94; SEPTA, 2-18-94; National Railroad Passenger Corporation, 2-22-94
 Reply Exceptions filed by: City of Philadelphia, 3-3-94

THIS CASE IS TO BE ASSIGNED TO THE BUREAU OF SAFETY & COMPLIANCE, RAIL SAFETY DIVISION TO MONITOR THIS PROCEEDING DURING THE CONSTRUCTION PHASE AND TO SUMMARIZE FINAL CONSTRUCTION COSTS.

11. MOTION BY: Commissioner Hanger	Commissioner	Chm. Rolka - Yes
	Commissioner	Quain - Yes
SECONDED: Commissioner Rhodes	Commissioner	Crutchfield - Yes

CONTENT OF MOTION: That Ordering Paragraph Number 2 be deleted; the Exceptions of the Law Bureau be granted; and the Office of Special Assistants prepare the appropriate Order.

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FOLDER

DOCKETED
APR 26 1994



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

May 24, 1994

IN REPLY PLEASE
REFER TO OUR FILE

I-00830373

LDA

TO ALL PARTIES

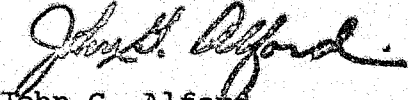
INVESTIGATION UPON THE COMMISSION'S OWN MOTION INTO THE MATTERS PERTAINING TO THE PROPER SERVICE, ACCOMMODATION, CONVENIENCE AND SAFETY OF THE TRAVELING PUBLIC USING THE RAIL-HIGHWAY CROSSING CARRYING 59TH STREET OVER AND ABOVE THE TRACKS OF NATIONAL RAILROAD PASSENGER CORPORATION IN THE CITY OF PHILADELPHIA, TO DETERMINE THE CONDITION, DISPOSITION AND RESPONSIBILITY FOR MAINTENANCE OF EXISTING CROSSING STRUCTURE.

To Whom It May Concern:

This is to advise you that an Opinion and Order has been adopted by the Commission in Public Meeting on April 7, 1994 in the above entitled proceeding.

An Opinion and Order has been enclosed for your records.

Very truly yours,


John G. Alford
Secretary

las
encls
cert. mail

DOCUMENT
FOLDER

COPY OF OPINION AND ORDER
SEE I.D. LETTER
DATED FEBRUARY 3, 1994

INDEXED
JUN 14 1994

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
HARRISBURG, PA. 17105-3265

Public Meeting held April 7, 1994

Commissioners Present:

David W. Rolka, Chairman
Joseph Rhodes, Jr., Vice-Chairman
John M. Quain
Lisa Crutchfield
John Hanger

DOCUMENT
FOLDER

Investigation upon the Commission's own motion into the matters pertaining to the proper service, accommodation, convenience and safety of the traveling public using the rail-highway crossing carrying 59th Street over and above the tracks of National Railroad Passenger Corporation in the City of Philadelphia, to determine the condition, disposition and responsibility for maintenance of the existing crossing structure.

I-00830373

DOCKETED
JUN 14 1994

OPINION AND ORDER

BY THE COMMISSION:

Before the Commission for disposition are the Exceptions ("Exc"), to the Recommended Decision ("R.D.") of Administrative Law Judge ("ALJ") Ky Van Nguyen issued on February 3, 1994, individually filed by the following parties on the dates indicated: (1) PECO Energy Company ("PECO" or "Philadelphia Electric Company") on February 17, 1994; (2) Southeastern Pennsylvania Transportation Authority ("SEPTA") on February 18, 1994; (3) City of Philadelphia ("City") on February 22, 1994; (4) National Railroad Passenger Corporation ("Amtrak") on February 22, 1994; and (5) the Commission's Law Bureau ("Law Bureau") on

February 23, 1994. On March 3, 1994, the City of Philadelphia filed Reply Exceptions ("R.E.").

Background

On February 22, 1983, the City of Philadelphia informed this Commission that the expansion dams on the 59th Street Bridge were in a state of disrepair. On February 25, 1983, we issued an Emergency Order at Docket No. M-830338, wherein we directed the City to repair the expansion dams at its initial cost. The repairs were completed in March, 1983. (R.D., p. 1).

On April 29, 1983, we instituted the present investigation at Docket No. I-830373, to determine the current condition of the crossing, its future disposition, and to assign future maintenance responsibilities. On June 29, 1983, the City notified us that the expansion dams required further repairs. We issued an Emergency Order on that same date requiring the City to perform the additional repairs at its initial cost. These repairs were completed in July, 1983.

By Order entered May 1, 1984, we directed Amtrak to perform an in-depth inspection of the bridge and to submit to us a report describing the extent of any deterioration, along with an engineering analysis of the existing structural components of the bridge, a recommendation of the overall load-carrying capacity of the bridge, and an estimate of the cost of rehabilitating the bridge to a load-carrying capacity of HS-20. We ordered the City to replace the expansion dams of the bridge. Amtrak filed the required report on March 12, 1985, but without the engineering analysis of the bridge. The City expended \$141,642.06 on emergency repairs and replacement of two expansion dams. Amtrak expended \$4,016.74. By Order entered November 7, 1985, we again directed Amtrak to perform the engineering analysis of the bridge structure at the crossing and to pay half of the cost incurred by the City. (R.D., pp. 1-2).

On March 16, 1993, the City further informed us that three of the deck expansion joints on the bridge had deteriorated to the point where there were open holes in the deck, creating a potential safety hazard for the traveling public. Representatives of this Commission arranged an informal field conference with representatives of the other parties involved in this proceeding. All parties agreed that immediate repairs to the damaged expansion joints were necessary, but no party volunteered to perform the necessary repairs. By Emergency Order issued on March 26, 1993, and ratified by this Commission on April 1, 1993, we directed the City, at its initial cost to perform the emergency repairs, with the allocation of costs to be determined at a future hearing. (R.D., pp. 2-3).

On February 3, 1994, after conducting a hearing, the ALJ issued the Recommended Decision regarding the disposition of the bridge, the allocation of costs of the projects, and the assignment of future maintenance.

Discussion

As a preliminary matter, we note that any issue or Exception which we do not specifically address has been duly considered and will not be further discussed. It is well settled that, as an administrative body, we are not required to consider expressly or at length each contention and argument marshalled by a party to a proceeding. See, generally, University of Pennsylvania v. Pa. P.U.C., 86 Pa. Commonwealth Ct. 140, 485 A.2d 1217 (1984).

We further note that the Administrative Law Judge made specific Findings of Fact and Conclusions of Law. (R.D., pp. 4-6, and 9, respectively). We adopt these herein by reference, unless modified or reversed by this final Opinion and Order.

The first matter we will discuss is that raised by the City of Philadelphia in its second Exception. There the City argues:

The City of Philadelphia files an Exception to Ordering paragraph 2 which requires the City to bear the cost of \$141,642.06 for emergency repairs and replacement of two expansion dams. The initial emergency repairs by the City on this structure were performed in 1983 and 1984 pursuant to Commission Orders.

The two expansion dams were replaced between October 1984 and January 1985. The total costs to the City for all work through January 1985 was \$141,642.06.

The Commission held a hearing to allocate these costs and to decide other issues on June 18, 1985. On September 26, 1985, a Recommended Decision was issued and on October 31, 1985, the Commission entered an Order adopting the Recommended Decision. Paragraph 3 of the Commission's October 31, 1985 [Order] ordered AMTRAK to reimburse the City \$70,821.03. This was 50% of the costs incurred by the City between 1983 and January 1985. The City received this payment from AMTRAK approximately 8 1/2 years ago.

There is nothing in the record after the Commission's October 31, 1985 Order which supports a reallocation of this money. This Ordering paragraph should be revised to reflect that the prior Commission Order allocating costs has been followed that no further appeal or legal action was initiated on this issue and the allocation of this money is not an unresolved issue.

(City Exc., p. 2).

We have reviewed the record in this proceeding regarding this issue and have determined that the City's contentions are accurate. These expenditures were already allocated by our Order entered October 31, 1985, in this

proceeding. Therefore, such expenditures should not have been allocated, or reallocated, in the Recommended Decision. To remedy this, we will delete Ordering Paragraph No. 2 of the Recommended Decision from the ordering paragraphs in our final Opinion and Order. Accordingly, the City's Exception No. 2 is granted.

The second issue we will address is raised by the Law Bureau regarding Ordering Paragraph No. 8 of the Recommended Decision, as follows:

The Law Bureau takes exception to ordering Paragraph No. 8 on Page 11 of the Recommended Decision which reads as follows:

8. That National Railroad Passenger Corporation and the Southeastern Pennsylvania Transportation Authority will cooperate fully with each other to furnish flagmen and watchmen, if necessary, to protect their operations during the approved work.

The Law Bureau does not except to the ALJ's recommendation that AMTRAK and SEPTA cooperate with each other to furnish flagmen and watchmen to protect their operations during the approved work.

However, in ALJ Nguyen's Discussion section on page 8 of the Recommended Decision, he writes that AMTRAK and SEPTA are outside the Commission's jurisdiction pertaining to the allocation of costs to public utilities under 45 U.S.C. [Section] 546(b) and [Section] 581(c)(5). In order to be consistent with the ALJ's interpretation of Federal law, the Law Bureau proposes that an additional paragraph be added following ordering Paragraph No. 8 to reflect the current state of the law and will read as follows:

That the costs for any flagmen or watchmen furnished by National Railroad Passenger Corporation and/or the Southeastern Pennsylvania Transportation Authority to protect their operations during the approved work will be paid by the City of Philadelphia at its sole cost and expense.

(Law Bureau Exc., pp. 1-2). This same issue is also raised by Amtrak in its fifth Exception (Amtrak Exc., p. 4) and SEPTA in its first Exception.

In its Reply Exceptions, at page 2, the City contends:

The Law Bureau's proposed additional paragraph must be rejected. As set forth in the City's Brief (filed in 1985) the record, and the current law, AMTRAK is the owner of this bridge. The citation to 45 U.S.C. [Section] 546(b) and [Section] 581(c)(5) are not relevant to the owner of a structure being responsible for the costs of maintaining their property. If SEPTA and AMTRAK now both have an ownership interest in this bridge then both railroads should be responsible for these costs. If AMTRAK has retained full ownership with respect to SEPTA, then AMTRAK should bear all costs including those of SEPTA.

In addressing this matter, the ALJ stated:

Amtrak and SEPTA are the owners and operators of the tracks below the bridge. Further, SEPTA runs a route G bus across the bridge. The structural soundness of the bridge no doubt contributes to the safe operations of these two rail commuters.

Thus, the City, Amtrak and SEPTA benefit from the existence of the bridge. Logically,

the cost of repairs or replacement should have been allocated among them. However, because Amtrak and SEPTA are outside the Commission's jurisdiction over the allocation of costs to public utilities by a federal statute, 45 U.S.C. [Section] 546(b) and 581(c)(5), National Railroad Passenger Corporation v. Pennsylvania Public Utility Commission, 665 F. Supp. 402 (E.D. Pa. 1987), aff'd 848 F.2d 436 (3rd Cir. 1988), cert. denied 109 S. Ct. 231 (1988), and Southeastern Pennsylvania Transportation Authority v. Pennsylvania Public Utility Commission et al., 826 F. Supp. 1506 (E.D. Pa. 1993), only the City should bear this cost.

(R.D., p. 8).

In considering this issue relative to Ordering Paragraph No. 8 of the Recommended Decision, we conclude that it is necessary to insert an additional paragraph to our ordering paragraphs in this Order regarding the allocation of costs incurred by SEPTA and Amtrak in providing flagmen and watchmen pursuant to this Opinion and Order. This is necessary to make the Recommended Decision consistent with the Federal Courts' decisions in National Passenger Corporation v. Pennsylvania Public Utility Commission, 665 F. Supp. 402 (E.D. Pa. 1987), aff'd 848 F.2d 436 (3rd Cir. 1988), cert. denied 109 S. Ct. 231 (1988), and Southeastern Pennsylvania Transportation Authority v. Pennsylvania Public Utility Commission et al., 826 F. Supp. 1506 (E.D. Pa. 1993). The City refers to arguments it made in its 1985 brief to support its contention that 45 U.S.C. Section 546(b) and 581(c)(5) are not relevant to this proceeding. However, the Federal Courts have examined this issue subsequent to the City's Brief, and have concluded that the Federal exemptions of 45 U.S.C. are applicable to both Amtrak and SEPTA. Accordingly, we will grant the Exceptions of the Law Bureau, Amtrak and SEPTA on this issue and incorporate the Law Bureau's proposed paragraph into our Opinion and Order.

In its seventh Exception, Amtrak argues:

The RD "Order" section contains no provision for reimbursement of the costs Amtrak has incurred pursuant to Commission order. Amtrak has incurred \$4,016.74 pursuant to the PUC's May 1, 1984 Order in this proceeding. Because the federal courts have ruled that Amtrak was exempt effective October 1, 1981, from impositions ordered by the PUC, Amtrak must be reimbursed for the \$4016.74 the Commission ordered Amtrak to expend in this case. Amtrak hereby incorporates, as though fully set forth herein, the reasons stated for Exceptions 2 and 5, above. Therefore, the decision in this case should be revised to add a paragraph to the Order assigning to another party repayment of \$4016.74 to Amtrak.

(Amtrak Exc., p. 7).

This issue is also raised, and arguments presented, in Amtrak's Exceptions 2 and 5, as well.

In response, the City argues:

AMTRAK Exception 7 alleges that there is no provision to reimburse AMTRAK costs incurred in 1984. This issue of allocating AMTRAK's 1984 cost was the subject of a hearing on June 18, 1985. A Recommended Decision and a Commission Decision in 1985 denied AMTRAK's request. There was no appeal from the 1985 Commission Order. The Order is now final.

No party, including AMTRAK, has the right to litigate issues ad infinitum. Furthermore, there is not one shred of evidence to support AMTRAK's claim for reimbursement. AMTRAK did not appear at the July 1, 1993 hearing and therefore, there is nothing in the record of proceeding which can justify AMTRAK's position.

(City R.E., p. 5).

In considering this matter, we are persuaded by the City's arguments. Amtrak did not appeal our 1985 Order concerning the allocation of these costs. Furthermore, Amtrak did not submit evidence at the hearing held July 1, 1993, to substantiate its claim. Consequently, there is no evidence of record to support its claim. Therefore, we will deny Amtrak's Exception No. 7, as well as Amtrak's Exception Nos. 2 and 5.

For the reasons presented above, we will adopt the Recommended Decision of the Administrative Law Judge, as modified to be consistent with our disposition of the Exceptions filed in this proceeding; **THEREFORE,**

IT IS ORDERED:

1. That the Exceptions filed by PECO Energy Company, Southeastern Pennsylvania Transportation Authority, City of Philadelphia, National Railroad Passenger Corporation, and the Law Bureau of the Pennsylvania Public Utility Commission, to the Initial Decision of Administrative Law Judge Ky Van Nguyen issued on February 3, 1994, be, and hereby are, granted, in part, and denied, in part, consistent with this Opinion and Order.

2. That the Recommended Decision is adopted, as modified by this Opinion and Order.

3. That the Motion filed by the Southeastern Pennsylvania Transportation Authority on November 5, 1993, is granted.

4. That the City of Philadelphia bear the cost of \$4,843.94, the amount incurred by it in complying with the Commission's Emergency Order of April 1, 1993.

5. That the City of Philadelphia maintain the 59th Street bridge in a safe and satisfactory manner.

6. That the City of Philadelphia, at its sole cost and expense, prepare and submit final plans, specifications and cost estimates within three (3) months of the entry date of this Opinion and Order to this Commission and the parties of record for review and approval. The plans may be approved without a hearing. The plans shall include, but are not limited to: replacement of the damaged expansion dams on the first pier at the north abutment, and on the second pier at the south abutment; and repair of the deteriorated portions of the concrete curbs, concrete sidewalks, concrete piers, and concrete abutments.

7. That the City of Philadelphia, at its sole cost and expense, within six (6) months of the approval of the final plans, furnish all materials and do all work necessary in accordance with the approved plans, all in a safe and satisfactory manner.

8. That the City of Philadelphia, at its sole cost and expense, furnish all materials and perform all work necessary to establish, mark and maintain any detours or traffic controls that may be required to properly accommodate highway and pedestrian traffic during the time the structure is repaired or replaced, and to remove them after the completion of the work, all in a safe and satisfactory manner.

9. That the National Railroad Passenger Corporation and the Southeastern Pennsylvania Transportation Authority will cooperate fully with each other to furnish flagmen and watchmen, if necessary, to protect their operations during the approved work.

10. That the costs for any flagmen or watchmen furnished by the National Railroad Passenger Corporation or the

Southeastern Pennsylvania Transportation Authority to protect their operations during the approved work will be paid by the City of Philadelphia at its sole cost and expense.

11. That the Philadelphia Electric Company, at its sole cost and expense, furnish all materials and do all work necessary, if any, to alter and protect its facilities to accommodate the approved work, all in a safe and satisfactory manner.

12. That any relocation of, changes in, or removal of existing facilities of any public utility other than the Southeastern Pennsylvania Transportation Authority, the National Railroad Passenger Corporation and the Philadelphia Electric Company, which may be required to be done as incidental to the approved work, be made by the said public utility in such a manner that will not interfere with the work performed at the crossing.

13. That all the parties involved herein cooperate fully with each other so that, during the performance of the approved work, neither the traveling public nor the parties' operations or facilities will be endangered or unnecessarily inconvenienced.

14. That the City of Philadelphia, at least ten (10) days prior to the start of the work, notify this Commission and all parties of record, of the actual starting date.

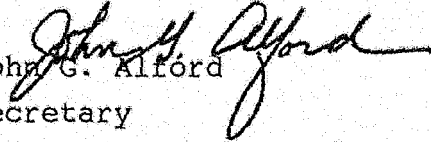
15. That the City of Philadelphia, within ten (10)

days after the completion of the work, notify this Commission and all parties of record, of the actual completion date.

16. That this Order, insofar as it places the costs of the approved work on the City of Philadelphia, is without prejudice to its right to recover said costs from others in accordance with any lawful agreement.

17. That all previous Order of this Commission in this proceeding that are not inconsistent with this Opinion and Order remain in full force and effect.

BY THE COMMISSION


John G. Alford
Secretary

(SEAL)

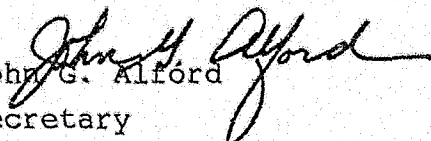
ORDER ADOPTED: APR 07 1994
ORDER ENTERED: MAY 24 1994

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17. That all previous Order of this Commission in this proceeding that are not inconsistent with this Opinion and Order remain in full force and effect.

BY THE COMMISSION


John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: APR 07 1994
ORDER ENTERED: MAY 24 1994



CITY OF PHILADELPHIA

ORIGINAL

LAW DEPARTMENT
1600 Arch Street
Philadelphia, PA 19103-2081

Joseph A. Dworetzky
City Solicitor

Gerald T. Clark
Senior Attorney

RECEIVED
95 FEB - 6 AM 9:30
INFO. CONTROL DIV.

January 30, 1995

John G. Alford, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: 59th Street over AMTRAK
PUC Docket I-00830373

Dear Secretary Alford:

Enclosed please find the original and three (3) copies of the City of Philadelphia's Petition to Modify the Commission's Order adopted on April 7, 1994.

Two copies of this Petition have been mailed this date to each person and party listed on the attached Certification of Service.

DOCUMENT
FOLDER

Respectfully,

Gerald T. Clark
Senior Attorney
City of Philadelphia

enc.

cc: All persons and parties on the Certification of Service

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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55 FEB -6 AM 9:30
U.S.
INFO. CONTROL DIV.

Investigation upon the Commission's own	:	
motion into the matters pertaining to the	:	Docket No:
proper service, accommodation, convenience	:	
and safety of the traveling public using the rail-	:	I-00830373
highway crossing carrying 59th Street over and	:	
above the tracks of National Railroad Passenger	:	
Corporation in the City of Philadelphia, to determine	:	
the condition, disposition and responsibility for	:	
maintenance of the existing crossing structure	:	

CITY OF PHILADELPHIA'S PETITION
TO MODIFY THE COMMISSION'S ORDER ADOPTED APRIL 7, 1994

On April 7, 1994, the Commission adopted an Opinion and Order which modified the Recommended Decision by granting several of the Exceptions filed by various interested parties and denying several of the Exceptions filed by the various interested parties.

As part of the Commission's Opinion and Order, the City of Philadelphia was required to perform the following tasks:

"6. That the City of Philadelphia, at its sole cost and expense, prepare and submit final plans, specifications and cost estimates within (3) months of the entry date of this Opinion and Order to this Commission and the parties of record for review and approval. The plans may be approved without a hearing. The plans shall include, by are not limited to: replacement of the damaged expansion dams on the first pier at the north abutment, and on

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the second pier at the south abutment; and repair of the deteriorated portions of the concrete curbs, concrete sidewalks, concrete piers and concrete abutments."

"7. That the City of Philadelphia, at its sole cost and expense, within six (6) months of the approval of the final plans, furnish all materials and do all work necessary in accordance with the approved plans, all in a safe and satisfactory manner."

In June 1993, the City of Philadelphia completed repairs to the expansion dams that were broken. The specific work on the broken and or deteriorated steel consisted of the following:

1. removal of defective and/or deteriorated steel angles;
2. removal of deteriorated asphalt and concrete to a depth down to the top of the floorbeams;
3. place and secure a 3/4" by 9" wide plate across the opening between the floor beams for the full length of the repair area;
4. placed and compacted bituminous concrete (ID-2) and seal the edges with hot asphaltic cement.

These repairs made by the City in 1993 have been successful and the broken/deteriorated steel expansion dams are no longer a safety problem to the public.

The City agrees to be responsible for inspecting these repairs and for making any additional repairs to the expansion dams if conditions warrant. The City believes that it is not necessary to replace the three (3) expansion dams that were not replaced in 1985 because such work is not necessary nor is it financially prudent at this time. When it becomes appropriate, the superstructure and/or deck of the 59th Street bridge will be replaced and the existing expansion dams will be either replaced or eliminated with the new design and construction.

The City of Philadelphia respectfully requests that the Commission modify the Opinion and Order adopted April 7, 1994 by eliminating paragraph's 6 and 7 (as quoted above). The City does not believe that any additional paragraphs need be included because paragraph 5 requires that the City of Philadelphia maintain the 59th Street bridge in a safe and satisfactory manner. The requirement is being met by the City and will continue to be fulfilled by the City.

Neither public safety nor any interested party will be adversely affected by the proposed modification to the Commission' Opinion and Order.

Therefore, the City of Philadelphia respectfully requests that this Petition to Modify the Commission's Opinion and Order be granted.



Gerald T. Clark
Senior Attorney
City of Philadelphia
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1600 Arch Street
Philadelphia, PA 10193-2081
(215) 686-7692

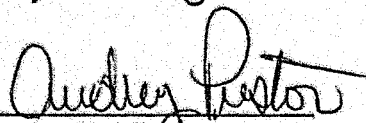
AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF PHILADELPHIA :

LORENZO CRUGER, P.E., being duly sworn according to law
deposes and says that he is the Chief Bridge Engineer in the Department
of Streets of the City of Philadelphia; that he is duly authorized to make this
affidavit on behalf of the City of Philadelphia; and that the facts set forth in
the foregoing Petition are true and correct to the best of his knowledge,
information and belief.


LORENZO CRUGER

Sworn to and Subscribed
before me this 30th day
of January, 1995


Notary Public

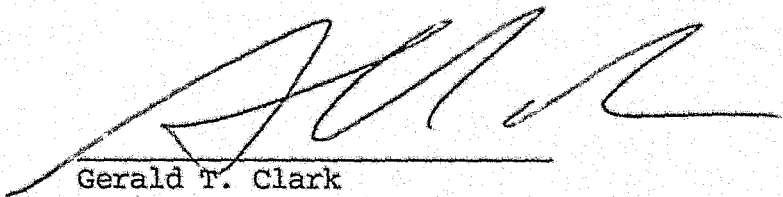
NOTARIAL SEAL
AUDREY PRESTON, Notary Public
City of Philadelphia, Phila. County
My Commission Expires March 22, 1997

CERTIFICATION OF SERVICE

I, Gerald T. Clark, Senior Attorney for the City of Philadelphia hereby certify that on January 30, 1995, I did mail by regular U.S. mail, postage prepaid two copies of the City of Philadelphia's Petition to Modify the Commission's April 7, 1994 Order in Docket I-830373 to each person listed below.

1. Honorable Ky Van Nguyen
Administrative Law Judge
PA Public Utility Commission
Room 1302
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Broad and Spring Garden Streets
Philadelphia, PA 19130
2. Scott Wasserkrug
Associate General Counsel
Consolidated Rail Corporation
Law Department
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Philadelphia, PA 19101
3. Scott H. DeBroff, Esquire
PA Public Utility Commission
Law Bureau
P.O. Box 3265
Harrisburg, PA 17105-3265
4. Stuart A. Liner, Esquire
Office of Chief Counsel
Pa Department of Transportation
5th Floor
Transportation and Safety Building
Harrisburg, PA 17120
5. PECO Energy Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101
Attention: Legal Department

6. Dennis M. Moore
Assistant General counsel
National Railroad Passenger Corporation
60 Massachusetts Avenue, N.E.
Washington, D.C. 20002
7. Vincent J. Walsh, Jr.
Assistant Deputy Counsel
SEPTA
7th Floor
714 Market Street
Philadelphia, PA 19106-2385



Gerald T. Clark
Senior Attorney
City of Philadelphia
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