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STATE OF PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

Before The

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

APPLICATION of the City of Philadelphia for the approval of the construction of a bridge to carry 70th Street over the lands of the tracks of the Philadelphia, Baltimore and Washington Railroad Company, Inc.,

D. A. 70522

## TRANSCRIPT

HEARING HELD AT PHILADELPHIA, PENNSYLVANIA

WEDNESDAY, MARCH 10, 1948

APPROVED

COURT REPORTERS, INC.  
10 SOUTH BROAD STREET  
PHILADELPHIA, PA.

I N D E X

1	<u>EVIDENCE ON BEHALF OF APPLICANT</u>	<u>DR.</u>	<u>CR.</u>	<u>RDR.</u>	<u>ROR.</u>
2	SAMUEL S. BAXTER - - - - -	3	16		
3	<u>EVIDENCE ON BEHALF OF PENNSYLVANIA</u>				
4	<u>RAILROAD COMPANY</u>				
5	HOWARD C. FORSYTH - - - - -	17			

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<u>EXHIBITS:</u>	<u>MARKED</u>	<u>IN EVIDENCE</u>
Applicant's No. 1 ✓	6	6
" No. 2 ✓	8	8
" No. 3 ✓	14	14

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

1  
 2 A.71522--APPLICATION OF THE CITY OF PHILADELPHIA for the  
 3 approval of the construction of a bridge to carry 70th Street  
 4 over the grade of the tracks of the Philadelphia, Baltimore  
 5 and Washington Railroad Company and The Pennsylvania Railroad  
 6 Company (operating as lessee of The Philadelphia, Baltimore  
 7 and Washington Railroad Company) in the City and County of  
 8 Philadelphia.

9  
 10 P.U.M.C. 1594--Agreement dated December 17, 1947, between the  
 11 City of Philadelphia, The Philadelphia, Baltimore and Wash-  
 12 ington Railroad Company and The Pennsylvania Railroad Company,  
 13 operating as lessee of The Philadelphia, Baltimore and Wash-  
 14 ington Railroad Company, relating to the construction and  
 15 maintenance of a bridge on the line of 70th Street over the  
 16 tracks of The Philadelphia, Baltimore and Washington Railroad  
 17 Company; in the City and County of Philadelphia.  
 18

19  
 20 BEFORE: EXAMINER JAY EISEMAN, ESQ.,  
 21 Presiding.

22 APPEARANCES: G. COE FARRIER, ESQ., (703 City Hall Annex,  
 23 Philadelphia, Pennsylvania)  
 24 For the City of Philadelphia.

25 L. K. CONNELL, ESQ., (1740 Broad Street Station  
 Building, Philadelphia, Pennsylvania)  
 For The Pennsylvania Railroad Company

INITIAL HEARING, held in Room 1503, Finance Building, Philadelphia, Pennsylvania, on Wednesday, March 10th, 1948, commencing at 10:00 a.m.

THE EXAMINER: Is it agreeable to consolidate for the purpose of hearing City of Philadelphia Application 71522 and P.U.M.C. 1594?

MR. FARRIER: It is agreeable to me.

MR. CONNELL: It is agreeable to me.

MR. FARRIER: Mr. Examiner, this application has been preceded by an application for a temporary certificate to authorize the initiation of the work; that certificate was issued by the Public Utility Commission, in the latter part of January, 1948, and work has been progressing under it according to my information.

We also filed a copy of agreement between The Pennsylvania Railroad and the City of Philadelphia covering the mutual rights and duties of the two parties in connection with the carrying out of the work. That agreement is now before you for consideration in connection with our application for a permanent certificate for the building of the bridge, and creating the separation, or continuing the separation, of grades.

Mr. Baxter of the Department of Public Works, Bureau of Engineering, is here to answer the questions

addressed to the parties by the Commission with respect to those things within the knowledge of the city.

It is my understanding that the Pennsylvania Railroad will answer questions numbers 1, 2 and 8, and perhaps give further light, or additional light, on some of the other questions.

The City is prepared to answer the remainder of the questions in the questionnaire.

THE EXAMINER: Very well. Do you have your proof of publication and also affidavit of service?

MR. FARRIER: Yes, sir.

THE EXAMINER: Very well, sir.

MR. FARRIER: And all other parties were served as directed by the Commission, all other parties in interest.

THE EXAMINER: It will be noted for the record that counsel for the City of Philadelphia handed the Examiner proof of publication in docket A.71522, and also in docket P.U.M.C. 1594, and advised the Examiner that service had been made upon the various parties requested by the Commission.

We will proceed.

SAMUEL S. BAXTER, 1103 City Hall Annex, Philadelphia, Pennsylvania, called on behalf of the City of Philadelphia, having been duly sworn, was examined and testified as follows:

## DIRECT EXAMINATION

BY MR. FARRIER:

1 Q Mr. Baxter, you are connected with the City Government  
2 of the City of Philadelphia?  
3

4 A Yes.

5 Q In what capacity and with what department?

6 A As Assistant Chief Engineer in the Bureau of Engineering  
7 Surveys and Zoning, Department of Public Works.

8 Q You are authorized to appear here on behalf of the city  
9 and answer questions relating to facts and policies in con-  
10 nection with this application and this agreement, are you?

11 A Yes.

12 Q What is your answer to question No. 3 which reads as  
13 follows: Character, designation and termini of the highway or  
14 highways involved in this proceeding?  
15

16 A 70th Street is a city street extending from the county  
17 boundary line of Cobbs Creek to Passyunk Avenue. It varies in  
18 width from seventy feet to eighty-eight feet.

19 The entire street is physically open from the  
20 county line to Passyunk Avenue, with the exception of the  
21 portion at the P.B.&W. Railroad covered by this application.  
22

23 Q What is your answer to Question No. 4 which reads as  
24 follows: Description of existing conditions at the site of  
25 the crossing involved?

A At the site of the proposed improvement, there are four

1 existing tracks of the P.B. & W. Railroad, at elevation approxi-  
2 mately twenty feet lower than the existing surface of 70th  
3 Street. Along the north side of the tracks there is existing  
4 a drainage ditch extending westward from 70th Street. There  
5 are also high steel catenary supports for the electrified ser-  
6 vice of the railroad.

7 Seventieth Street, on the south side of the  
8 railroad, is improved practically to the railroad right of way;  
9 on the north side there is merely a graded street.

10 Q What is your answer to Question No. 5 which reads as  
11 follows: A general plan showing the proposed crossing improve-  
12 ment?

13 Question No. 5 relates to a general plan.  
14 Copies of this plan were already filed with the Commission,  
15 were they not, in a hearing on the temporary permit?

16 A Yes, they were.

17 MR. FARRIER: I was just wondering, Mr. Exam-  
18 iner, whether it would be necessary to file them all over again.

19 THE EXAMINER: I think it will be because either  
20 the entire file would have to be reviewed, since it goes to  
21 three separate departments, we would like to have three separ-  
22 ate copies.

23 MR. FARRIER: I would like to have the steno-  
24 grapher mark for identification three copies of the general  
25 plan which I offer in evidence at this time.

(APPLICANT'S Exhibit No. 1 marked for identification.)

1 THE EXAMINER: Applicant's Exhibit No. 1 will  
2 be accepted for the record.

3 (Applicant's Exhibit No. 1 received in evi-  
4 dence.)

5 MR. FARRIER: I think that satisfies the re-  
6 quirements of Question No. 5.

7 BY MR. FARRIER:

8 Q These are the plans prepared in cooperation with the  
9 Pennsylvania Railroad, are they not, for this improvement?

10 A Yes. And they are the contract drawings for the con-  
11 struction of the bridge.

12 Q What is your answer to Question No. 6, which reads as  
13 follows: A detailed estimate of the proposed crossing im-  
14 provement subdivided in such a manner as to show separately  
15 the quantity, unit prices and cost of each portion of work to  
16 be performed by the applicant, and the cost of each portion  
17 of the work which applicant suggests be performed by other  
18 parties, exclusive of public utilities which have facilities  
19 that may require alteration or relocation incidental to the  
20 construction of the crossing improvement as proposed on the  
21 plan?  
22

23  
24 Mr. Examiner, you asked for detailed informa-  
25 tion on this. It is all contained in a typewritten exhibit.  
Is it necessary to go over all the details of the figures?

THE EXAMINER: No, it is not, unless there is something that should be explained on the exhibit form.

BY MR. FARRIER:

Q Mr. Baxter, this question seems to entail the request by the Commission for the preparation of detailed and specific information with regard to the separate items of the performance of this proposed work.

Have you prepared a tabulation in answer to that requirement of the question?

A Yes, I have.

Q Now, in connection with it, what does it show with respect to the over-all cost of the work?

A The estimate shows that the estimated over-all cost of the work is \$259,000.

Q Does it show any division of the work between the parties to the agreement or not?

A The tabulation shows the detail cost of the various items and a separation into the share to be paid by this city and by the railroad.

Q Under the agreement?

A Under the agreement.

Q Are there any other public utilities that are going to be disturbed by the performance of the work?

A None as far as the bridge itself is concerned.

Q Have you included in the cost of the work any item for

condemnation of land?

1 A No, there is no such item in the cost. This tabulation  
2 represents the actual cost of constructing the bridge.

3 Q That is the estimated cost?

4 A The estimated cost.

5 Q It is the intention of the city to require any minor  
6 changes in any other public utility structures to be made at  
7 the expense of those parties, is it not?

8 A It is.

9 MR. FARRIER: I would like to offer three  
10 copies of this tabulation for identification by the stenograph-  
11 er, and to become a part of the record in this case.

12 (Applicant's Exhibit No. 2 marked for identi-  
13 fication.)

14 BY THE EXAMINER:

15 Q Mr. Baxter, has this been prepared under your direction  
16 and supervision?

17 A Yes, sir.

18 THE EXAMINER: Is there any objection to the  
19 exhibit?

20 MR. CONNELL: We have no objection, Mr. Examiner.

21 THE EXAMINER: Applicant's Exhibit No. 2 is  
22 accepted for the record.

23 (Applicant's Exhibit No. 2 received in evidence.)

24 BY MR. FARRIER:

25 Q Mr. Baxter, what is your answer to question No. 7 which

reads as follows: Reasons or necessity for making the crossing improvement involved in this proceeding?

1  
2 A The construction of the 70th Street Bridge, will open to  
3 traffic a through street for the entire length, from Passyunk  
4 Avenue to the County Line of Cobbs Creek, and will also connect  
5 South Philadelphia to the 69th Street and Market Section.

6 It will provide a direct avenue for the thousands  
7 of employees of the General Electric Company who live  
8 north of the railroad tracks.

9 Q It will also give more convenient access to the city  
10 for heavy trip movements from the South, would it not?

11 A This particular route is not part of the main through  
12 truck route.

13 Q No, but it will provide additional access for that movement  
14 to the Passyunk Avenue Bridge?

15 A No, in this case, this leads on into the Yeadon Section  
16 of Delaware County.

17 Q What is your answer to Question No. 9 which reads as  
18 follows: Approximate daily volume of vehicular and pedestrian  
19 traffic normally using the highway at each of the crossings  
20 involved?  
21

22 A At the present time there is no traffic at the crossing.  
23 The estimated volume based on traffic counts at adjoining  
24 streets, and an estimate of the various industrial plants  
25 south of the railroad indicate that the total traffic for a

twelve-hour period will be approximately 2,000 vehicles.

1 BY THE EXAMINER:

2 Q Do you have an estimate for your pedestrians?

3 A We have not made any direct estimate for pedestrian  
4 traffic at the present time. This is primarily a vehicular  
5 bridge.

6 THE EXAMINER: Very well.

7 BY MR. FARRIER:

8 Q What is your answer to Question No. 10 which reads as  
9 follows: Whether the construction of the crossing improvement  
10 will involve the appropriation of any property by the Com-  
11 mission, and, if so, a description by metes and bounds of each  
12 parcel of property to be appropriated by the Commission; said  
13 description in each case to contain the name and post-office  
14 address of each record owner and reference to the recording  
15 of title thereof?  
16

17 A No appropriation of the property by the Commission is  
18 necessary.  
19

20 Q What is your answer to Question No. 11 which reads as  
21 follows: An estimate of damages due to the owner for property  
22 to be appropriated by the Commission, and for property that  
23 may be injured or destroyed by the construction of the cross-  
24 ing improvement, and the party who should be made responsible  
25 for payment thereof in event the application is approved?

A There are no damages.

Q What is your answer to Question No. 12 which reads as follows: Whether it will be necessary for the Commission to lay out any new highways or to vacate any existing highways for the purpose of the crossing improvement, and, if so, a brief description of each highway to be laid out, and of each portion of highway to be vacated?

A It will not be necessary for the Commission to lay out any new highways or to vacate any existing highways.

Q What is your answer to Question No. 13 which reads as follows: Whether it will be necessary to detour highway traffic during the construction of the improvement and, if so, what arrangements will be made to provide and maintain the necessary detour?

A No detours are necessary.

Q What is your answer to Question No. 14 which reads as follows: Any agreement of one or all of the parties in interest relative to the performance, maintenance or paying the cost of any or all portions of the crossing improvement, including damage costs?

A There is an existing agreement between the City of Philadelphia, and The Philadelphia, Baltimore and Washington Railroad, and The Pennsylvania Railroad Company, covering the construction and maintenance of this bridge. This agreement is dated December 17th, 1947.

Q That agreement has been filed with the Commission and is

now before the Commission in this consolidated proceeding for review, is it not?

1  
2 A Yes, sir.

3 Q What is your answer to Question No. 15 which reads as  
4 follows: The date the order of the Commission should fix as  
5 the time for the completion of the improvement in event the  
6 application is approved?

7 A June 1, 1949.

8 Q That will be the date of completion?

9 A Yes, sir.

10 Q What is your answer to Question No. 16 which reads as  
11 follows: Whether any of the interested parties desire to  
12 submit any additional relevant testimony?  
13

14 A The city has no additional testimony to submit.

15 MR. FARRIER: Mr. Examiner, I don't think it  
16 will be necessary to introduce additional copies of the agree-  
17 ment in evidence; they have been filed in triplicate with the  
18 Commission already.

19 THE EXAMINER: If they have already been filed  
20 in triplicate, it will not be necessary.

21 MR. FARRIER: Any cross examination?

22 MR. CONNELL: Mr. Examiner, I assume those  
23 agreements will be incorporated in and made a part of this  
24 record, is that right?  
25

THE EXAMINER: Yes. I don't see any three

copies of it, Mr. Farrier, in the file.

1 MR. FARRIER: I filed three copies with the  
2 Commission. I have additional copies here.

3 THE EXAMINER: If you have three copies, I think  
4 we ought to have it marked as Applicant's Exhibit No. 3.

5 MR. FARRIER: I ask to have it marked as  
6 Applicant's Exhibit No. 3 for identification, and I offer it  
7 in evidence.

8 (Applicant's Exhibit No. 3 marked for identi-  
9 fication.)

10 THE EXAMINER: Is there any objection?

11 MR. CONNELL: No objection.

12 THE EXAMINER: Applicant's Exhibit No. 3 is  
13 accepted for the record.

14 (Applicant's Exhibit No. 3 received in evidence.)

15 THE EXAMINER: You may cross examine, Mr.  
16 Connell.

17 MR. CONNELL: I have no questions to ask him,  
18 sir.

19 BY THE EXAMINER:

20 Q In the breakdown on Exhibit No. 2, Mr. Baxter, you set  
21 forth the respect shares of the city and the railroad as  
22 \$195,000 and \$64,000, making a total of \$259,000. You also  
23 have a separate item of estimated cost of railroad work.  
24 What is that figure? What does that represent?  
25

A The detailed items which are numbered, represent the

costs which are in the direct contract for the construction of the bridge. In addition to that work, the railroad must adjust with its own forces, certain of its facilities, including its electrified lines, drainage ditches, and watchman service, and such things. Those costs are estimated, and have been estimated in a lump sum.

It has not been possible to break them down at this time.

Q Then I understand that everything except the item which you set forth as estimated cost of railroad work, will be done by the City of Philadelphia, is that correct?

A Yes, sir; by the city, by contract.

BY MR. FARRIER:

Q That does not necessarily, however, imply that the city pays the entire cost of that contract?

A No. Under the terms of the agreement the entire cost of the work in connection with the bridge is split 75-25, with the city paying 75 per cent of the cost and the railroad paying 25 per cent.

Q The actual work, however, will be under the supervision of the city, and under city contract?

A Under the terms of the agreement, the work is under the supervision of the city and the railroad, with the exception that the large contract for the bridge is being managed by the city.

1 THE EXAMINER: Do you have any questions, Mr.  
2 Connell?

3 MR. CONNELL: Yes, sir.

4 CROSS EXAMINATION

5 BY MR. CONNELL:

6 Q Mr. Baxter, when you say the entire cost of the project,  
7 the railroad company is not required to participate in any  
8 cost of the approaches?

9 A No. The railroad company is only required to participate  
10 in the actual construction of the bridge. The contract for the  
11 work includes a one block of approaches, running from Linemore  
12 Street to Paschall Avenue. All of the cost of that particular  
13 part of the improvement is borne by the city, and is so indicat-  
14 ed on the estimated breakdown sheet.

15 BY THE EXAMINER:

16 Q On your Exhibit No. 2?

17 A Yes, sir.

18 Q The manner in which that is indicated on your Exhibit No.  
19 2 is by showing blanks under railroad share, under the item-  
20 ization, am I correct?

21 A Yes.

22 MR. FARRIER: That will close the case for the  
23 city, Mr. Examiner.

24 THE EXAMINER: You are excused, Mr. Baxter.

(Witness excused.)

1  
2 HOWARD C. FORSYTH, 440 Pennsylvania Railroad  
3 Station, 30th Street, Philadelphia, Pennsylvania, called on  
4 behalf of The Pennsylvania Railroad, having been duly sworn,  
5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. CONNELL:

8 Q Mr. Forsyth, by whom are you employed?

9 A The Pennsylvania Railroad Company.

10 Q In what capacity?

11 A In the Engineering Department, as Chief Engineer of the  
12 Eastern Region.  
13

14 Q As such, are you authorized to testify in this proceeding  
15 on behalf of the Pennsylvania Railroad?

16 A I am.

17 Q Are you familiar with the proposed project?

18 A I am.

19 Q What is your answer to Question No. 1 of the Commission's  
20 Questionnaire of January 19, 1948, which reads as follows:

21 Complete and exact corporate name and the termini of the line  
22 of railroad involved in this proceeding?  
23

24 A The Philadelphia, Baltimore, and Washington Railroad  
25 Company, termini, Philadelphia, Pennsylvania, and Washington,  
D. C.

Q What is your answer to Question No. 2 which reads as follows: Complete and exact corporate name of the company presently operating the line of railroad involved?

A The Pennsylvania Railroad Company, lessee of the Philadelphia, Baltimore and Washington Railroad Company.

Q What is your question to Question No. 8 which reads as follows: The approximate number, class and speed of train movements made or to be made daily over each crossing involved?

A The volume of train movements over a typical 24-hour period on all four tracks is: Passengers, 155 trains, freight, 54 trains. Speed of trains: Passengers, on all four tracks, 75 miles per hour, freight, on numbers 1 and 2 tracks, 40 miles per hour; freight on numbers 3 and 4 tracks, fifty miles per hour.

Q Mr. Baxter has set a date for the completion of the work. Is that date agreeable to the railroad company?

A The date set by Mr. Baxter is agreeable to the railroad company.

Q Question No. 16 asks whether you desire to submit any additional testimony. Do you have anything further that you want to say?

A We have nothing further to submit.

Q Will you state just for the information of the Commission the work which the railroad proposes to do?

A Eight catenary attachments to be adjusted, four signal

transmission attachments to be adjusted, structure grounding,  
1 relocating signal transmission circuit, lowering catenary  
2 system during construction of the bridge, and then, after the  
3 bridge is built, it will have to be adjusted, changes to the  
4 catenary hangers, temporary structure during construction,  
5 that will be a shield. We will have to have a man for main-  
6 taining traffic on account of electrification protection, and  
7 it will be necessary to have an M. W. watchman to maintain  
8 traffic. And there will be a certain amount of engineering  
9 by railroad engineers during construction.

10 MR. CONNELL: That is all that I have, sir.

11 THE EXAMINER: Is there any cross examination?

12 MR. FARRIER: I only wanted to ask one question.

13 BY MR. FARRIER:

14 Q The company is ready to take such necessary precautions  
15 to protect the workers on the bridge, and their own employees,  
16 during the progress of the work, are they not?

17 A Yes.

18 MR. CONNELL: We are willing, I believe, as is  
19 indicated, to furnish electrification protection and the main-  
20 tenance of watchmen. I think the protection and everything  
21 is set forth in the agreement. I don't know what you mean by  
22 "we are willing to furnish all protection there and see that  
23 nobody is injured." I don't think that we can agree to any-  
24 thing like that.

1 MR. FARRIER: Well, I didn't have that in mind  
2 in asking the question. There is always a slowdown in trains,  
3 and an extra tenseness of care in the workers in and about a  
4 job like this, that I intended by my question to get the  
5 agreement of the railroad to, or at least the consent of the  
6 railroad, that they would use the ordinary care in the opera-  
7 tion of trains, having in view the fact that the construction  
8 work was going on at that location.

9 I see no objection to that. It is not asking  
10 you to enter into any commitment of any kind.

11 THE EXAMINER: You are only asking to do what  
12 they are legally obligated to do, do I understand that?

13 MR. CONNELL: That is right.

14 MR. FARRIER: Yes.

15 THE WITNESS: My answer was along that line.  
16 I wasn't getting on the question of liability.

17 THE EXAMINER: No, I realize that.

18 MR. CONNELL: I think the agreement provides,  
19 Mr. Examiner, that both parties are going to cooperate to the  
20 fullest extent in connection with this project. And I think  
21 the Commission will so provide in its order. I don't think we  
22 want to make any legal commitments here as to what is going to  
23 happen, and what is not going to happen.  
24

25 (Witness excused.)

THE EXAMINER: Are there any other parties in

1 the hearing room that desire to testify in either of these  
2 proceedings?

3 (No answer.)

4 THE EXAMINER: Is that all there is, gentlemen?

5 MR. CONNELL: Yes, sir.

6 MR. FARRIER: That is all that we have.

7 I would like to submit the case on the record,  
8 without briefs or arguments.

9 THE EXAMINER: Is that agreeable?

10 MR. CONNELL: That is agreeable.

11 THE EXAMINER: The application will be submit-  
12 ted on the record, and the hearing is concluded.

13 (Hearing concluded.)

14  
15 I HEREBY CERTIFY THAT the proceedings and evi-  
16 dence herein are contained fully and accurately in the notes  
17 taken by me at the hearing in the above cause before the Public  
18 Utility Commission of the Commonwealth of Pennsylvania, and  
19 that this copy is a true and correct transcript of the same.

20 Reported by:

21 J. C.

22 *Jack Comer*  
23 Official Court Reporter.