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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION  
IN THE MATTER OF THE APPLICATION OF THE  
PENNSYLVANIA POWER & LIGHT COMPANY

APPLICATION OF DEPARTMENT OF REVENUE

Doc. No. 71539

Hearing held at Altoona, Cambria County, Pennsylvania

April 2, 1934

before

COMMISSIONER RALPH W. FRYCOCK

Transcript of Proceedings

Reported by Walter H. Redford, for  
E. A. Bonhart, Official Reporter  
at Altoona, Pa.

A. 71530

Application of Department of Highways of the Commonwealth of Pennsylvania for approval of the alteration of the crossing at grade, where State Highway Route 221 is crossed by a single track of The Pennsylvania Railroad Company in Ashville Borough, Cambria County, and the allocation of the costs and expenses incident thereto.

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INDEX TO WITNESSES:

Page

Edwin S. Smith, for the Department of Highways, the applicant.....	1
Hugh F. Porter, for the Pennsylvania Railroad, an interested party.....	14

EXHIBITS

Department of Highways Exhibit No. 1. ✓ Set of blue prints, three sheets, showing details of proposed improvements.

Department of Highways Exhibit No. 2. ✓ Estimated cost of railroad crossing improvements covered by the instant application.

P. R. R. Exhibit No. 1. ✓ Estimated cost to P. R. R. of crossing changes involved in the instant application.

TRANSCRIPT OF PROCEEDINGS had on Thursday, April 2, 1948, beginning at the hour of 10:00, A. M., before RALPH PEACOCK, Sitting Examiner, at the Court House, Ebensburg, Cambria County, Pennsylvania.

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APPEARANCES:

For the Applicant: Department of Highways appeared by John Rezzolla, Jr., Esq., Harrisburg, Pa.

The Pennsylvania Railroad Company, an interested party, appeared by A. M. Donnan, Esq., Pittsburgh, Pa.

The Pennsylvania Electric Company, an interested party, appeared by Carl Haghny, Altoona, Pa.

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MR. REZZOLLA: If the Examiner please, this is the application of the Department of Highways, identified in the Commission's records as Application 71530. May we ask that the record show that notice of this hearing was published in the "Johnstown Tribune" on March 17 and March 22 and, further, that proof of such publication was filed with the Commission on March 29, 1948. May we ask further that the Questionnaire submitted by the Commission be made part of the record to facilitate taking the testimony.

BY THE SITTING EXAMINER: It is so ordered.

EDWIN S. SMITH, Harrisburg, Pa., being duly sworn according to law and examined, testified on behalf of the Department of Highways as follows:

DIRECT EXAMINATION BY MR. REZZOLLA:

Q. State your full name and address.

A. Edwin S. Smith, Pennsylvania Department of Highways, Harrisburg, Pa.

Q. What is your official position with the Department of Highways?

A. Junior Grade Crossing Engineer.

Q. Are you familiar with the subject matter of the instant application?

A. Yes, I am.

Q. Are you also familiar with the Questionnaire submitted by the Commission in respect thereto?

A. Yes, I am.

Q. Are you authorized to reply to the questions contained in the Questionnaire for and on behalf of the Department of Highways?

A. I am.

Q. Mr. Smith, I refer you to Question No. 3 of the Questionnaire, which reads as follows: Character, designation and termini of the highway or highways involved in this proceeding.

A. The Department of Highways on the application in this proceedings propose to complete the construction of an uncompleted short section of highway from Liberty Street in the Borough of Ashville, Cambria County. This uncompleted section is 1494 feet or 28/100ths mile in length and is paved with brick on a concrete base. A portion of the street is sixteen feet in width and the remainder is twenty-three

feet in width. The highway is designated as Legislative Route 221, Traffic Route 36. Legislative Route 221 runs in a general northwesterly direction from its southern terminus to the intersection of Legislative Route 55, or Traffic Route 222, in the City of Altoona, Blair County, through the Borough of Ashville, Spangler and Hastings to its northerly terminus at the intersection of Legislative Route 62, Traffic Route 219 in the Borough of Mahaffey, Clearfield County.

Q. Mr. Smith, I refer you to Question 4 of the Questionnaire, which reads as follows: Description of existing conditions at the site of the crossing involved, relative to paving and protection.

A. The present crossing is paved with bituminous material to a width of twenty-four feet. Cinders are also provided in the crossing area for the sidewalk portions of the crossing. The wooden guard rails or liners are adjacent to the rails on the crossing, furnishing light protection at crossing. The horizontal alignment of the highway approaches adjacent to the crossing are on a tangent or straight line. The vertical alignment approaches the crossing from the east on approximately a six per cent. descending grade and on the west on approximately a five per cent. ascending grade.

Q. Mr. Smith, I refer you to Question No. 5 of the Questionnaire, which reads as follows: "A general plan showing the proposed crossing improvement," and in connection therewith from the Department of Highways Exhibit No. 1 ask you to

identify it and explain its provisions.

A. Exhibit No. 1 is a blueprint consisting of three sheets; the first sheet, or the title sheet shows a general lay-out of the proposed improvement on Liberty Street in the Borough of Ashville, Cambria County. This sheet also shows the record of the existing road types on the present pavement in this section as well as the road type adjacent to the beginning and the end of the proposed construction. Sheet No. 2 shows cross sections of the pavement to be constructed on this improvement. The first cross section at the ~~top~~ of the sheet is the section which will be used in the portion over which the Public Utility Commission is assuming jurisdiction. This section shows a highway width of thirty-two feet with eight inch concrete curbs plus five feet sidewalk on each side of the concrete roadway paving. This sheet also shows general notes containing information as to the legal right of way of the existing highway as well as other information. Sheet 3 shows in detail the horizontal and vertical alignment of the highway approaches adjacent to the crossing. This sheet also shows the required list of materials which will be necessary in order to complete the construction of this improvement at and adjacent to the railroad crossing.

Q. Mr. Smith, I refer you to Question No. 6 of the Questionnaire, which reads as follows: "A detailed estimate of the proposed crossing improvement subdivided in such a manner as to show separately the quantity, unit prices and cost of each portion

of work to be performed by the applicant and the cost of each portion of the work which applicant suggests be performed by other parties, exclusive of public utilities which have facilities that may require alteration or re-location incidental to the construction of the crossing improvement as proposed on the plan," and in connection therewith from the Department of Highways Exhibit No. 2 ask you to identify and explain its provisions.

- A. Exhibit No. 2 is an estimate of cost of the proposed improvement by the applicant and the work which the applicant suggests be performed by other parties or, in this particular instance, to be done by the Highway Department, consisting of grading the highway approaches, paving these approaches, providing sufficient drainage on the approaches, the construction of curbs and sidewalks. All of this work is estimated to cost \$4,582.00. However, the curbs and sidewalks are to be constructed by the Highway Department, but that cost of such work is allocated in accordance with an agreement with the County of Cambria, who will pay the Department of Highways for doing this work. They also will pay the Department for construction of curbs and sidewalks outside of the limits over which the Commission will assume jurisdiction. The remaining part of the estimate shows the work which the applicant suggests be performed by the Pennsylvania Railroad Company. This is divided into paving, the cost of which is estimated at \$190.00, and re-locating of flashing lights, which have been roughly estimated at

\$900.00. This makes a total of \$1090.00. The applicant, or the Department of Highways, will agree to reimburse the Pennsylvania Railroad Company fifty per cent. of the actual cost incurred by the Company for relocating and modernizing the flashing light signals.

- Q. Mr. Smith, these figures on the Department of Highway's Exhibit No. 2 concerning curbs and sidewalks--curbs \$342.00 and sidewalks in the sum of \$240.00--does that represent merely the portion within the jurisdiction of the Public Utility Commission?
- A. That is correct. That is the portion only within the section over which the Public Utility Commission is assuming jurisdiction.
- Q. And that agreement with Cambria County covers additional sums to be paid to the Department of Highways for work outside the jurisdiction of the Public Utility Commission?
- A. That is correct.
- Q. I refer you to Question No. 7 of the Questionnaire, which reads as follows: "Reasons or necessity for making the crossing improvement involved in this proceeding."
- A. The reason or necessity for making the crossing improvement is incidental to providing a wider street for the traveling public through the Borough of Ashville and, as stated in answer to Question No. 3, the highway has been completed on each end of the proposed improvement. In other words, there is a gap missing of approximately 1,500 feet which has not

been paved with concrete and which work is proposed to be done on this construction of this project, which work is a part of the work included in this application before the Commission.

Q. I refer you to Question No. 9 of the Questionnaire, which reads as follows: "Approximate daily volume of vehicular and pedestrian traffic normally using the highway at each of the crossings involved."

A. The approximate daily volume of vehicular traffic normally using the highway is 1,031 passenger cars and 225 trucks, or a total of 1,256 vehicles every twenty-four hours. The Department of Highways has no pedestrian count at this location. However, the crossing will be paved a width sufficient to include the sidewalk arrangements.

Q. I refer you to Question No. 10 of the Questionnaire, which reads as follows: "Whether the construction of the crossing improvement will involve the appropriation of any property by the Commission and, if so, a description by metes and bounds of each parcel of property to be appropriated by the Commission; said description in each case to contain the name and post-office address of each record owner and reference to the recording of title thereof." What is your answer thereto?

A. The construction of the crossing improvement will not involve the appropriation of any property by the Commission inasmuch as all work will be confined between the right-of-way lines of the highway and the Pennsylvania Railroad Company on the

portion over which the Commission is assuming jurisdiction.

Q. I refer you to Question No. 11 of the Questionnaire, which reads as follows: "An estimate of damages due ~~to~~ the owner for property to be appropriated by the Commission and for property that may be injured or destroyed by the construction of the crossing improvement, and the party who should be made responsible for payment thereof in event the application is approved."

A. The estimate of damages will be zero or none due to the ~~fact~~ fact that all work is confined to the right-of-way line of the Pennsylvania Railroad Company and the Department of Highways. However, the County of Cambria has assumed the responsibility for payment of property damages on the remainder of the project.

Q. That is without the jurisdiction of the ~~Public Utility~~ Public Utility Commission?

A. That is correct.

Q. Mr. Smith, I refer you to Question No. 12 of the Questionnaire, 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 highway or vacate any existing highway for the purpose of the crossing improvement because this is merely a proposed widening of the existing highway and all work will be done

in the existing highway and that portion will be widened.

No new highway will be necessary to be laid out.

Q. Mr. Smith, I refer you to Question No. 13 of the Questionnaire, 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." What is your answer?

A. No detours will be necessary as traffic will be maintained during the construction of this improvement.

Q. I refer you to Question No. 14 of the Questionnaire, 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." What is your answer?

A. No formal executed agreement has been made between the parties of interest relative to the performance, maintenance or paying the cost of any or all portions of the crossing improvement, although verbal and agreements by letters have been made, in which the Pennsylvania Railroad Company has agreed to pave the crossing area and relocate the flashing signals. The Department of Highways will agree to perform all of that work which was shown on Exhibit No. 2 under the Highway Work--that is grading, paving and providing sufficient drainage at the approaches to the crossing. It will also construct curbs and sidewalks at the expense of the County.

Department of Highways will agree to maintain the roadway approaches to the crossing as well as the drainage facilities on the approaches. The curbs and sidewalks should be maintained by the Borough of Ashville and the crossing area paving as well as the flashing light signals should be maintained by the Pennsylvania Railroad in the opinion of the applicant. As I stated in answer to Question No. 6, the Department of Highways will agree to reimburse the Pennsylvania Railroad Company one-half the cost of relocating the flashing light signals at the crossing. I also stated that there would be no damage costs incurred in the portion over which the Commission is assuming jurisdiction and that the County of Cambria is assuming property damage costs on the portions outside of the limits of the Public Utility Commissions' jurisdiction.

- Q. Mr. Smith, when you said there won't be any damage costs you mean property damage costs, is that right?
- A. That's right.
- Q. Within the jurisdiction of the Commission?
- A. That's right.
- Q. I refer you to Question No. 15 of the Questionnaire, which reads as follows: "The date the order of the Commission should fix as the time for the completion of the improvement in event the application is approved."
- A. We ask the Commission to fix nine months after the issuance of Order as the time for completion of the improvement in the event the application is approved.

- Q. Mr. Smith, I refer you to Question No. 17 in the Questionnaire, which reads as follows: "Whether the improvement will involve
- A. the alteration of facilities of any public utility other than those of the involved railroad company; and, if so, whether the utility companies will each assume the cost of altering their facilities and what these alterations are estimated to cost."
- A. The alteration of this crossing will involve alteration of one pole of the Bell Telephone Company. This pole is located on public property or within the right-of-way lines of the Borough street and this cost should be assumed by the utility company for making alterations of relocating this pole.
- Q. I refer you to Question No. 16 of the Questionnaire, which reads as follows: "Whether any of the interested parties desire to submit any additional relevant testimony."
- A. I have no further testimony.

CROSS EXAMINATION BY MR. DONNAN:

- Q. Mr. Smith, as I understand your plan, Exhibit 1, the Highway Department is--you propose to take care of the existing grade on the railroad crossing the highway by warping the highway, is that correct?
- A. The existing grade across the tracks shows a zero percentage grade. In other words, the superelevation of the track of the Railroad Company at the present time would have to be removed.

- Q. I did not mean to be talking about super elevations--that is the elevation of one track over the other--but I understand there is a grade on the railroad track as it crosses the highway.
- A. I see.
- Q. Isn't that correct?
- A. That is correct.
- Q. And you will warp the highway so as to take care of that?
- A. That's right.
- Q. Your plan does contemplate that the rails of the railroad track will be on the same plane or elevation, is that correct?
- A. That is correct. The rails which will cross the crossing will not have a super elevation in them due to the adverse effect it would have on the grade of the highway.
- Q. In your answer to Question 14 I think you meant to cover the understanding between the Department of Highways and the Railroad as to division of costs, but I only heard you cover the performance of work. As I understand it, in reference now to Exhibit 2, the Department of Highways will perform at its own cost all the so-called highway work in the first block of that Exhibit, amounting to \$4,582.00?
- A. Not at their own cost.
- Q. Well, at the Highway Department's own cost as between the Highway Department and the Railroad?
- A. In the first block the curbs and sidewalks are to be reimbursed to the Department of Highways by the County of Cambria.

Q. I see. All the remainder of the work, of the highway work, will be performed by the Department of Highways at its own cost?

A. That is correct.

Q. Now, as to the Railroad work, the understanding is that the Railroad Company will pave the crossing at its expense?

A. That is correct.

Q. And as to the flashing light signals, the work of re-locating and modernizing is to be performed by the Railroad but at the joint cost of the Railroad and the Department of Highways?

A. That is correct.

MR. REZZOLLA: We offer in evidence Department of Highways Exhibits Nos. 1 and 2.

BY THE SITTING EXAMINER: They are admitted.

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TESTIMONY OF THE PENNSYLVANIA RAILROAD COMPANY

HUGH F. PORTER, employed by the Pennsylvania Railroad Company, Pittsburgh Division, Pittsburgh, Pa., being duly sworn according to law and examined, testified on behalf of the Pennsylvania Railroad Company as follows:

DIRECT EXAMINATION BY MR. DONNAN:

Q. Mr. Porter, are you familiar with the Questionnaire which has been submitted in this case?

A. I am.

Q. And are you familiar with the facts in the matter?

A. I am.

Q. Have you been authorized to answer on behalf of your Company the questions in the Questionnaire, which call for information from the Pennsylvania Railroad Company?

A. I have.

Q. Have you prepared answers to those questions?

A. I have.

Q. I refer you to Question No. 1 of the Questionnaire, which reads as follows: "Complete and exact corporate name and the termini of the line of railroad involved in this proceeding."

A. Irvona Branch of the Pittsburgh Division of The Pennsylvania Railroad Company, from Cresson, Pa., to Irvona, Pa.

Q. I refer you to Question No. 2 of the Questionnaire, which reads as follows: "Complete and exact corporate name of the company presently operating the line of railroad involved."

A. The Pennsylvania Railroad Company.

Q. I refer you to Question No. 4 of the Questionnaire, which reads as follows: "Description of existing conditions at the site of the crossing involved, relative to paving and protection."

Q. Present crossing paved with timber bound bituminous material. Crossing protected by flashing light signals controlled by track circuits.

Q. I refer you to Question No. 6 of the Questionnaire, which reads as follows: "A detailed estimate of the proposed crossing improvement subdivided in such a manner as to show

separately the quantity, unit prices and cost of each portion of work to be performed by the applicant and the cost of each portion of the work which applicant suggests be performed by other parties, exclusive of public utilities which have facilities that may require alteration or relocation incidental to the construction of the crossing improvement as proposed on the plan."

- A. Estimate attached covering rehabilitation of track, paving of crossing area, and relocation of flashing light signals.
- Q. I refer you to Question No. 8 of the Questionnaire, which reads as follows: "The approximate number, class and speed of train movements made or to be made daily over each crossing involved."
- A. An average of six movements per day over the crossing, consisting of two freight trains in each direction and two locomotives only - schedule speed 25 m. p. h.
- Q. I refer you to Question No. 14 of the Questionnaire 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. Railroad Company has agreed to pave the crossing area 9.2 feet x 43 feet 4 inches which includes the widened portion of the road and two 5 ft. sidewalks. It is proposed to use creosote timber panel crossing. Railroad Company has also agreed to relocate the flasher light signals at the crossing upon condition that the State Highway Department

will bear fifty per cent of the cost of such relocation. The Railroad Company will maintain the crossing and the flasher light signals after completion of the work.

Q. I refer you to Question No. 15 of the Questionnaire, which reads as follows: "The date the order of the Commission should fix as the time for the completion of the improvement in event the application is approved."

A. Upon reasonable notice to the Railroad Company, the work in which the Railroad Company is involved can be completed in approximately 30 days.

Q. Mr. Porter, I show you a paper which has been marked for identification as P. R. R. Exhibit No. 1 and ask you whether that is the estimate of the cost to which you refer in your answer to Question 6?

A. It is.

MR. DONNAN: I offer Exhibit No. 1.

BY THE SITTING EXAMINER: It is admitted.

Q. With reference to Question 16 of the Questionnaire, do you have any additional testimony to offer?

A. The only thing additional that I could offer is at the hearing held--let me go back--as originally agreed in the correspondence, the railroad would remove the super elevation from the track, and at the hearing on the ground we requested a half inch elevation to remain. That has since been withdrawn and the railroad is agreeable to removing the super-elevation as originally proposed and as shown on the plan.

GROSS EXAMINATION BY MR. REZZOLLA:

Q. Mr. Porter, you mentioned a hearing. Don't you mean a field conference?

A. A field conference, excuse me.

BY THE SITTING EXAMINER: Are any other interested parties in Court present who desire to submit any testimony?

MR. HAGHNY: The Pennsylvania Electric Company.

BY THE SITTING EXAMINER: If you were not here at the time that Mr. Smith testified, his testimony concerning the Bell Telephone Company pole was that it was to be moved at the expense of the Bell Telephone Company.

MR. HAGHNY: That's right.

BY THE SITTING EXAMINER: We are not here interested in any agreement between you and the Bell Telephone Company. If you wish to offer any testimony, you have the right so to do, but that was the nature of the testimony Mr. Smith offered.

MR. HAGHNY: The only thing we have to offer is we will perform any work that is necessary.

END OF HEARING

10:40 A. M.

CERTIFICATE OF REPORTER

I hereby certify that the proceedings, evidence and rulings of the Sitting Examiner are contained fully and completely in the notes taken by me on the hearing of above application, and that this is a correct transcript of the same.

Katherine Rodgers  
Katherine Rodgers  
Reporter  
Brookville, Pa.

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APPROVAL OF SITTING EXAMINER

The foregoing record of the proceedings upon the hearing of above application is hereby approved and directed to be filed.

Ralph Peacock  
Sitting Examiner.