

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application Docket No. 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 (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.

O R D E R

BY THE COMMISSION, FEBRUARY 1, 1965:

This Commission by order dated May 6, 1963 approved the application of the City of Philadelphia and directed the construction of a new modern highway bridge to replace the existing obsolete and deteriorated structure carrying Spring Garden Street (State Highway Route 67002) over numerous yard tracks and under the high line tracks of The Pennsylvania Railroad between 31st Street and the Schuylkill Expressway in the 24th Ward of the City of Philadelphia.

The order approved the general and detailed construction plans prepared by the city and provided for all work, including the alteration of facilities of The Pennsylvania Railroad Company and other public utilities, required to complete the improvement. However, in order that the physical construction work, to which all parties were agreed, would not be delayed pending completion of the record, filing of briefs and adjudication by the Commission of certain issues relating to the allocation of costs, the original order did not dispose of these controversial matters but left them for this supplemental order.

Under the provisions of the order of May 6, 1963, the City of Philadelphia was required to construct the entire improvement (exclusive of the alteration of the facilities of the railroad company and other public utilities) which work was estimated by the city to cost \$650,000.

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The Pennsylvania Railroad Company was required to make all temporary and permanent alterations of its tracks, signals, wire lines, electrification, and other facilities and to maintain watchmen, flagmen, Class A electrical workers, bridge inspectors, etc., estimated by the carrier to cost \$193,638.

Philadelphia Electric Company was required to remove certain street lighting facilities from the existing bridge, estimated by the company to cost \$2,000.

Philadelphia Transportation Company formerly operated street railway cars on its double track line on the existing bridge, but the company abandoned these facilities in place when the Commission approved the substitution of bus service for the trolley service.

The city, Department of Highways, and the railroad company are in agreement as to the allocation of the construction and future maintenance costs between them. However, the city and Philadelphia Transportation Company are not in agreement in respect to these issues. The transportation company contended that the city should reimburse it the additional cost that would be incurred by the company in operating its buses over detour and longer routes during the time the new bridge was being constructed and the present route was out of service. The city does not agree to pay these additional costs of the transportation company.

Evidence submitted at the hearing shows that the transportation company presently operates its Bus Route 43 over the existing bridge, that normal operation on this route consists of 134 round trips on weekdays, 112 on Saturdays, and 107 on Sundays, that closing of the bridge for reconstruction would require the company to operate over a long detour or temporary route for a period of approximately 9 months adding about 2.11 mile to each trip and would require the addition of two extra buses to maintain the present headway.

The transportation company contends that the additional costs of operating over the detour are an expense of the proposed rail-highway crossing project and justly should be borne by the city and the Department of Highways.

At the hearing of February 13, 1963, counsel for the company attempted to introduce testimony to show the derivation of the actual amount of these additional costs which would be incurred by the transportation company in operating over the detour. Upon objection of counsel for the city and the Commonwealth, the Hearing Examiner refused to permit the introduction of this testimony.

Subsequently, the company petitioned the Commission for reversal of the Examiner's rulings and rehearing. By order dated April 1, 1963 the Commission denied the petition and found ... "that these matters, even if assumed to be relevant, are too remote for our concern in this proceeding."

Upon careful review of the record, including the briefs filed by the company and the city (joined in by the Commonwealth), we find no reason to change our finding in this matter and accordingly we will allocate the construction costs and future maintenance of this project as we deem just and reasonable; THEREFORE,

IT IS ORDERED:

1. That The Pennsylvania Railroad Company bear the entire cost incurred by the carrier in furnishing material and doing all work necessary to complete all temporary and permanent alterations and relocations of its tracks, signals, wire lines, electrification, and other facilities required by the construction of the improvement and, in addition, bear the entire cost of flagmen, watchmen, inspectors, Class A electrical workers and other protective services furnished and maintained by the carrier to protect its facilities and operations during the time the improvement is being constructed over and adjacent to its tracks, exclusive, however, of all protective services furnished and maintained by the carrier contingent solely upon the work and operations of the city and/or its contractor, said work (exclusive of flagmen and protective services) being estimated by the carrier at \$193,638.

2. That The Pennsylvania Railroad Company pay City of Philadelphia a sum or sums of money equal to \$10,000, to apply on the cost incurred by the city in constructing the rail-highway crossing improvement, in accordance with our order of May 6, 1963.

3. That Philadelphia Electric Company bear the entire cost incurred by the company in removing its street lighting facilities from the existing bridge.

4. That the actual cost incurred by any public utility, other than The Pennsylvania Railroad Company and Philadelphia Electric Company, in relocating, changing or altering any of its adjacent structures, equipment, or other facilities located within the limits of any highway, required by or incidental to the execution of the improvement in accordance with our order of May 6, 1963, be borne by the respective utility and such relocated or changed facilities thereafter be maintained by said public utility.

5. That City of Philadelphia pay The Pennsylvania Railroad Company the actual cost incurred by the carrier in furnishing and maintaining watchmen, flagmen, inspectors, Class A electrical workers, and other protective services to protect its facilities and operations contingent solely upon the work and operations of the city and/or its contractor.

6. That City of Philadelphia bear the entire cost incurred by it in vacating, relocating, removing, or demolishing any nonutility structures, including occupied dwellings, located upon property required for the construction of the improvement.

7. That City of Philadelphia bear the entire cost incurred by it in establishing and maintaining any detours or temporary routes to accommodate highway traffic during the construction of the improvement.

8. That City of Philadelphia bear the entire cost incurred by it in furnishing material and doing work necessary to complete the remainder of the improvement, in accordance with our order of May 6, 1963.

9. That The Pennsylvania Railroad Company pay any money to which it may be entitled as compensation for damages for any of its property taken, injured, or destroyed by reason of the construction of the improvement, in accordance with our order of May 6, 1963.

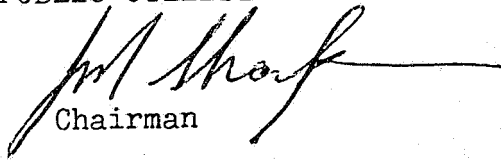
10. That City of Philadelphia pay all compensation for damages, if any, due to the owners, exclusive of The Pennsylvania Railroad Company, as hereinabove provided, for property taken, injured, or destroyed by reason of the construction of the improvement in accordance with our order of May 6, 1963.

11. That Department of Highways, having agreed so to do, pay City of Philadelphia a sum or sums of money equal to \$1,500,000, or such proportionate part hereof that may be applicable to the instant rail-highway crossing portion of the general Spring Garden Street (State Highway Route 67002) and Benjamin Franklin Parkway Improvement Project, in accordance with the agreement between the city and the Commonwealth of Pennsylvania dated December 26, 1962.

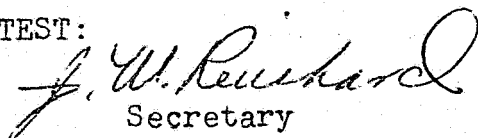
12. That upon completion of the construction of the rail-highway crossing project and its opening to public use, The Pennsylvania Railroad Company, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its tracks, wire lines, signals, and other facilities located upon its right of way, including its overhead electrification facilities and their attachments to the new bridge.

13. That upon completion of the construction of the rail-highway crossing project and its opening to public use, City of Philadelphia, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the remainder of the improvement, including the entire substructure and superstructure of the new bridge.

PENNSYLVANIA PUBLIC UTILITY COMMISSION


Chairman

ATTEST:


Secretary