PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application Docket No. 71522

In re: Application of CITY OF PHILADELPHIA - For approval of the construction of a bridge to carry 70th Street over the grade of the tracks of The Philadelphia, Baltimore and Washington Railroad Company and The Pennsylvania Railroad Company (operating as lessee of The Philadelphia, Baltimore and Washington Railroad Company) in the City and County of Philadelphia.

O R D E R

BY THE COMMISSION, May 24, 1948:

Seventieth Street, an improved highway in the City and County of Philadelphia, was laid out and established to a width of 70 feet across the right of way and four main tracks of The Philadelphia, Baltimore and Washington Railroad Company (leased and operated by The Pennsylvania Railroad Company) by an ordinance of the Council of the City of Philadelphia, dated March 11, 1947. In the instant application, the City of Philadelphia seeks our approval of the construction of a bridge to carry 70th Street over and across the tracks and right of way of the railroad company.

By its petition filed concurrently with the instant application, the City of Philadelphia seeks a preliminary order temporarily approving the construction of the crossing above grade, pending hearing upon the matters involved. Our order issued January 27, 1948, temporarily approves the construction of the crossing above grade.

A general and detail plan attached to the instant application as Exhibit B provides for the construction of the new crossing above grade. The plan proposes the construction of a half-through steel plate girder and steel I-beam bridge which will provide a minimum vertical clearance of 20 feet between the top of rails and the bottom of the bridge superstructure and will provide a horizontal clearance of about 90 feet between the faces of the stone face concrete abutments. The new bridge will provide an asphalt plank surface on a concrete roadway about 40 feet in width between concrete curbs and will provide a concrete sidewalk supported on brackets and approximately eight feet clear in width on each side

of the roadway. Provision is made for installation of water mains and electric conduits in the sidewalk areas of the bridge. The plan further provides for improvement of the highway approaches to the new bridge across the tracks of the railroad company.

A detailed estimate, prepared by City of Philadelphia and submitted of record at the hearing held March 10, 1948, as applicant's Exhibit No. 2 shows that the entire crossing improvement is estimated to cost $259,000, $235,000 of which is the cost of the portion of the improvement which includes the construction of the new highway bridge and highway approaches, and $24,000 of which is the estimated cost of necessary railroad work. The estimate further shows that the city will assume the cost of the portions of this work which are estimated to cost $195,000 and that the railroad company will assume the cost of portions of the work which are estimated to cost $64,000.

The record shows that highway traffic on the proposed new bridge is estimated at 2,000 vehicles during a 12-hour period and that no estimate of pedestrian traffic has been made. The record further shows that the daily railroad traffic at the site of the proposed new crossing above grade consists of an average of 155 passenger train movements made at an average speed of 75 miles per hour and an average of 54 freight train movements made at an average speed of 50 miles per hour.

An agreement made December 17, 1947, between City of Philadelphia, The Philadelphia, Baltimore and Washington Railroad Company and The Pennsylvania Railroad Company, and submitted of record at the hearing held March 10, 1948, as applicant's Exhibit No. 3, provides for the division between these parties of the work incident to the construction and maintenance of the proposed improvement and for the allocation of the costs and expenses incident thereto. The agreement provides, inter alia, that the city will, in the future, maintain and repair the bridge and approaches except where such maintenance or repair is necessitated by railroad traffic under the bridge, and that the railroad company will, in the future, maintain and repair the bridge where maintenance and repair is necessitated

by the operation of trains under the bridge causing impairment or destruction of concrete encasements of beams, or girders, or where direct damage is caused by contact of railroad property, equipment or freight in transit with the bridge structure.

The above agreement has been filed with us in accordance with the provisions of Section 911 of the Public Utility Law and docketed at P.U.M.C. 1594. On January 27, 1948, we instituted a proceeding against the parties to the agreement to determine the reasonableness, legality or any other matter affecting the validity of this agreement and a hearing was held on these matters March 10,1948. Our order issued this even date in the proceeding docketed at P.U.M.C. 1594 approves the agreement and permits it to become effective.

The record in the instant proceeding shows that it will not be necessary for this Commission to lay out and establish any new highway, to vacate any existing highway or to appropriate any property for the purpose of the improvement.

Upon full consideration of the matters and things involved, we find and determine that construction of a new crossing above grade, at a point in the City and County of Philadelphia, to carry 70th Street over and across the four main tracks and right of way of The Philadelphia, Baltimore and Washington Railroad Company (leased and operated by The Pennsylvania Railroad Company, in accordance with the general and detail plan attached to the instant application as Exhibit B, is necessary or proper for the service, accommodation, convenience or safety of the public; THEREFORE,

IT IS ORDERED:

1. That the instant application be and is hereby approved.

2. That a new crossing above grade, at a point in the City and County of Philadelphia, be constructed to carry 70th Street over and across the four main tracks and right of way of The Philadelphia, Baltimore and Washington Railroad Company (leased and operated by The Pennsylvania Railroad Company), in accordance with the general and detail plan attached to the instant application as Exhibit B which said plan is hereby approved and made part hereof.

3. That The Pennsylvania Railroad Company furnish all

material and do all work necessary to make any temporary or permanent relocations or alterations of its tracks, poles, wire lines, catenary transmission system or other facilities to permit construction of the improvement in accordance with the approved plan and, in addition, to maintain watchmen or flagmen to protect its train operations during the time the said temporary or permanent relocations or alterations are being made and during the time the new bridge is being constructed over its tracks in accordance with this order.

4. That any relocation of, changes in, or removal of any adjacent structures, equipment or other facilities of any public utility, other than The Pennsylvania Railroad Company and The Philadelphia, Baltimore and Washington Railroad Company, located within the limits of any highway which may be required as incidental to the execution of the improvement, herein ordered, be made by said public utility, at its sole cost and expense, and in such a manner as will not interfere with the construction of the improvement.

5. That any relocation of, changes in, or removal of any adjacent structures, equipment or other facilities of any public utility, other than The Pennsylvania Railroad Company and The Philadelphia, Baltimore and Washington Railroad Company, located beyond the limits of any highway which may be required as incidental to the execution of the improvement, herein ordered, be made by said public utility in such a manner as will not interfere with the construction of the improvement.

6. That City of Philadelphia furnish all material and do all work necessary to complete the remainder of the improvement in accordance with the approved plan.

7. That all work necessary to complete the improvement, herein ordered, be done in a manner satisfactory to this Commission and be fully completed on or before July 1, 1949, and that on or before said date each party, herein required to do work, certify to this Commission the date of actual completion of its respective portion.

8. That, during the time the new bridge is being constructed over its tracks in accordance with this order, The Pennsylvania Railroad Company cooperate with City of Philadelphia in the construction of the improvement and operate its trains in the vicinity

of the crossing in a safe manner, at reduced speed and under control.

9. That City of Philadelphia cooperate with The Pennsylvania Railroad Company during the time the crossing improvement is being constructed in accordance with this order so that operation of the railroad company's facilities will not be endangered or unnecessarily impeded.

10. That The Pennsylvania Railroad Company and The Philadelphia, Baltimore and Washington Railroad Company each pay any money to which it may be entitled severally as compensation for damages for any of its respective property taken, injured or destroyed by reason of the construction of the improvement in accordance with this order.

11. That City of Philadelphia pay all compensation for damages due to the owners, exclusive of The Pennsylvania Railroad Company and The Philadelphia, Baltimore and Washington Railroad Company, for property taken, injured or destroyed by reason of the construction of the improvement in accordance with this order.

12. That City of Philadelphia pay The Pennsylvania Railroad Company, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to 75 per cent of the actual cost of work performed and material furnished by said railroad company in accordance with this order in altering or relocating its railroad facilities; said reimbursement to include 75 per cent of the actual cost incurred for flagman and watchman services rendered during the time the railroad company is making alterations to its facilities in accordance with this order and during the time the new bridge is being constructed over its tracks.

13. That The Pennsylvania Railroad Company pay City of Philadelphia, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to 25 per cent of the actual cost of work performed and material furnished by said city in constructing the new bridge to carry 70th Street over the tracks of the railroad company in accordance with this order, but exclusive of any portion of the cost of material furnished and work performed by said city in constructing the highway approaches to the new crossing above grade.

14. That, upon completion of the improvement, herein ordered, 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 relocated and altered facilities located at the crossing above grade, herein ordered constructed.

15. That, upon completion of the improvement, herein ordered, and its opening to public use, City of Philadelphia furnish all material and do all work necessary thereafter to maintain the remainder of the improvement, including the substructure and superstructure of the new bridge constructed to carry 70th Street over and across the tracks of the railroad company in accordance with this order, and to maintain the highway approaches thereto.

16. That this order, in so far as it imposes the cost of maintenance of any portion of the improvement upon City of Philadelphia, is without prejudice to the right of said city to recover from The Pennsylvania Railroad Company or The Philadelphia, Baltimore and Washington Railroad Company part or all of the cost so incurred in accordance with any lawful agreement or understanding between said parties whenever such maintenance costs are incurred due to operation of the trains of the railroad companies beneath the bridge causing impairment or destruction of concrete encasements of beams or girders, or by reason of physical contact between any equipment or property of the railroad company or freight hauled thereon, with any part of the bridge structure.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

John Lizzynis Jr.
Chairman

ATTEST:

J. Walter
Secretary

Commissioner Morgal being absent did not participate in the vote on this order.

MAY 27 1948