

DECISIONS OF

# Pennsylvania Public Utility Commission

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VOLUME 38



HARRISBURG, PENNSYLVANIA

1962

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

v.

LACKAWANNA AND WYOMING VALLEY RAILROAD  
COMPANY, ET AL.

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COMPLAINT DOCKET No. 17205

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*Practice and Procedure—Rehearing (petition for)—Section 1007 of Public Utility Law.*

Municipalities have no express statutory right to file a petition for rehearing under Section 1007 of the Public Utility Law.

*Practice and Procedure—Rehearing (petitions for)—Filing (time for).*

A rehearing was granted to two municipalities to receive evidence in a crossing proceeding even though the petitions for rehearing were not filed within 15 days allowed by Section 1006 of the Public Utility Law.

*Practice and Procedure—Rehearing (petitions for)—Commission Power—Section 1007 of Public Utility Law.*

Any lawful petition seeking appropriate action of the Commission may be presented for the Commission's attention and the Commission may, if it sees fit, and can do so without violating anyone's fundamental rights, inquire into the matter more fully and act accordingly.

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*Anthony L. Marino* for Public Utility Commission.

*Thomas E. Mack* for Township of Pittston.

*J. Justin Blewitt* and *J. Earl Langan* for City of Pittston.

*Charles B. Waller* and *J. Thirwall Griffith* for Scranton-Spring Brook Water Service Company.

*Howard J. Ketz* for Pennsylvania Power and Light Company.

*John R. Rezzolla, Jr.*, and *Bernard Mendelsohn* for Department of Highways.

*Warren, Hill, Henkelman* and *McMenamin* by *Joseph Kredor* and *Cody H. Brooks* for Delaware, Lackawanna and Western Railroad Company and Lackawanna and Wyoming Valley Railway Company.

*John B. King* and *E. Everett Mather* for Bell Telephone Company of Pennsylvania.

BY THE COMMISSION, *May 9, 1960*:

This matter is before us on a joint petition filed by City of Pittston and Township of Pittston for reopening, rehearing, rescission and/or amendment of our order dated September 21, 1959. The order concerns two highway bridges, about 500 feet apart, at or near the dividing line between City of Pittston and Pittston Township in Luzerne County. One bridge carries William Street over a single track of Lackawanna and Wyoming Railroad Company and the other bridge carried Broad Street over the same track. Our order provided for the alteration and improvement of the William Street crossing and, upon completion thereof, closing and abolishing the Broad Street crossing.

The petition alleges, in summary, that redevelopment plans currently considered indicate the essential need for reopening and rehabilitation of the Broad Street crossing.

Respondents' motion to strike alleges that the petitioners were parties to the complaint proceeding which culminated in the order complained of, that their present petition is not filed within the 15 days allowed by Section 1006 of the Public Utility Law, and that petitioners have no right to present the instant petition under Section 1007 thereof.

It is, of course, true that petitioners have not filed their petition within the time allowed by Section 1006. It is equally true that they have no express statutory right to file such a petition under Section 1007. However, any lawful petition seeking appropriate action of the Commission may be presented for the Commission's attention and the Commission may, if it sees fit, and can do so without violating anyone's fundamental rights, inquire into the matter more fully and act accordingly.

Here, the petitioners allege that present civic plans require reopening and rehabilitation of the Broad Street crossing. We are of the opinion that petitioners should be given an opportunity to prove their claim; **THEREFORE,**

**IT IS ORDERED:**

1. That the record in this proceeding be and is hereby reopened to receive evidence with respect to the need, if any, for rehabilitating and reopening to public use the crossing ordered abolished in numbered

paragraph 2 of our order dated September 21, 1959, in this proceeding, and for the purpose of determining the amount, kind, and allocation of expenses, if any, that may be involved.

2. That this order be served on all record parties hereto, and that the matter be scheduled for further hearing for the purposes indicated.

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## APPLICATION OF DUBLIN WATER COMPANY

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### APPLICATION DOCKET No. 87093

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*Water Companies—Service Area—Charter Area—Commission Power—Water Service Extension—Service and Facilities.*

While granting a water company the authority to extend its service area, the Commission commented that although it could take steps to procure a correction of the company's charter area because of various errors in the original incorporation proceedings, it saw no compelling reason for such action as the Commission had plenary power to control the right of furnishing water service anywhere in the Commonwealth.

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*Milton Berger* for Dublin Water Company.

*Elmer Menges* for Upper Dublin Township.

*Foulke, Knight and Porter* by *Thomas B. Moreland Porter, Jr.*, for Enterprises, Inc., and *Raymond L. Corper, Inc.*

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BY THE COMMISSION, *May 9, 1960*:

By this application, filed on January 15, 1960, Dublin Water Company seeks a certificate of public convenience evidencing Commission approval, under Article II, Section 202(c) of the Public Utility Law, 66 P.S. 1122(c), of the beginning of the exercise of the additional right, power, or privilege of furnishing water service to the public in a certain portion of Upper Dublin Township, Montgomery County, as described by metes and bounds in the application and as shown on a map attached thereto.