

Pennsylvania Senate Transportation Committee  
Senator John C. Rafferty, Majority Chairman  
Senator John N. Wozniak, Minority Chairman

**HEARING ON THE DELAY AND DELIVERY OF STATE ROAD AND BRIDGE PROJECTS**  
**Tuesday, February 2, 2016, 9:30 AM**

Testimony by:

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Chairman Rafferty, Chairman Wozniak and Transportation Committee members, thank you for the opportunity to provide an update from the Pennsylvania Turnpike Commission (PTC) regarding the delay and delivery of road and bridge projects. I am Brad Heigel, Chief Engineer at the PTC.

This year marks the 75<sup>th</sup> anniversary our agency has been operating. Obviously, we have grown significantly over the past decades; our mission statement reflects both our long history and our shared vision for the future. Our mission is to operate a safe, reliable customer-valued toll-road system that supports national mobility and commerce.

As you know, the PTC has been asked to do more to support mobility both on our system and with PennDOT — and by extension dozens and dozens of agencies across Pennsylvania. We continue to meet our financial obligations to the Commonwealth under Act 44 of 2007 and Act 89 of 2013. We are working diligently to modernize our system and operate more efficiently. We are making significant investments in rebuilding and widening our system and creating new capacity for the Commonwealth.

Today, you have asked the PTC to discuss the status of the delivery of projects associated with Act 89, and issues surrounding the delay and delivery of our transportation projects and potential solutions to achieve greater efficiencies in project delivery schedules.

**Act 89 Projects**

As you are aware, Act 89 provided additional Oil Franchise Tax funding to allow for the continuation of the Southern Beltway and Mon/Fayette projects in southwestern Pennsylvania.

The proposed, 30-mile, limited-access highway known as the Southern Beltway is located between Interstate 376 (Parkway West) near the Pittsburgh International Airport and the Mon/Fayette Expressway (Turnpike 43) near Finleyville, PA. To date, the 6-mile Findlay Connector has been constructed and opened to traffic connecting Interstate 376 to U.S. Route 22.

The next 14-mile section between U.S. Route 22 and Interstate 79 is in final design and nearing construction. In 2015, the PTC completed the structures that carry the Southern Beltway over U.S. Route 22. Three sections are scheduled for bid in 2016, and the cashless tolling facility is scheduled for opening in late 2019 or early 2020. Upon opening, it is expected to significantly reduce traffic congestion on

Interstate 79 and Interstate 376 by providing direct connections from the south and west to the Pittsburgh International Airport. It will also open areas of potential economic development.

The proposed Mon/Fayette is currently terminated at State Route 51 in Jefferson Hills. Recently, the PTC initiated the design for sections north of State Route 51 to the Interstate 376 (Parkway East) in Monroeville. A reevaluation of the Final Environmental Impact Statement (FEIS) is required as the "North Shore Leg" extending from East Pittsburgh/Turtle Creek to the City of Pittsburgh has been removed from further consideration. Furthermore, various cost-saving options are being explored as the needs and purpose of the Mon/Fayette are further reevaluated.

### **Environmental Permitting**

The PTC's Capital Plan is focused on designing and constructing capacity-adding projects that are several miles in length. We are required to obtain Chapter 102 and Chapter 105/404 permits from the Pennsylvania Department of Environmental Protection (DEP) to address erosion and sediment control, storm water management and impacts to aquatic resources, respectively.

- The PTC plans for submission of both the Chapter 102 and the Chapter 105/404 permit applications one year in advance to be able to schedule the release and bid of projects.
- Unlike PennDOT, the PTC does not have funded positions within the DEP regional offices for consultation and review of permits.
- Public agencies are struggling with maintaining qualified compliments to handle the various reviews.
- For calendar year 2016, the PTC would like to advance the total reconstruction from milepost 202-206 in Cumberland County and milepost A31-A38 in Montgomery County; applications have been submitted.
- We have also submitted applications for the initial roadway sections of the U.S. Route 22 to Interstate 79 portion of the Southern Beltway.
- We would like to acknowledge the DEP's approval of our proposal to use a private stream mitigation bank for the U.S. Route 22 to Interstate 79 project and look forward to the use of future banking opportunities.
- Act 162 of 2014 is related to riparian buffers under Chapter 102. Interim Final Technical Guidance was issued in March 2015, but final guidance is pending. The uncertainty on this topic affects the review process for the Chapter 102 applications that have been submitted.

**Recommended Solution:** Consideration of a third-party consultant to help with the development and review of permits similar to Maryland might be an alternative for consideration. The PTC pursued this option with the DEP under the prior administration but was unsuccessful.

## **Local Ordinance Exemptions**

The Municipalities Planning Code (53 P.S. §10701 et. seq.) ("MPC") does not expressly exempt the PTC from requirements of local municipal ordinances; nor does the PTC's enabling legislation (Act 44) expressly preempt requirements of local municipal ordinances (74 Pa.C.S. §8101 et. seq.). Since the PTC does not have an exemption under the Municipal Planning Code (MPC), in situations where the local ordinance is more restrictive than what is presently required by the DEP permitting process, the PTC must meet the higher (more stringent) standard which leads to an increase in costs and time.

- Unlike PennDOT, the PTC is not exempt from local ordinances.
- Often, local ordinances are tailored to site development and are difficult to adapt to linear transportation projects.
- Many times, the local ordinances criteria are of a higher standard than that of DEP. For example, when evaluating storm water management, it is often the expectation that the existing impervious area be examined in a meadow condition as storm water is managed for volume, rate and quality.
- Letters of consistency are sought from local municipalities for both storm water and flood zone requirements.
- The applications for the total reconstruction and widening project from milepost 320-326 in Tredyffrin Township, Chester County were submitted in October 2011. The resulting engineering and project delay has resulted in millions of dollars of costs to the PTC.

**Recommended Solution:** In order to establish legislative priority of Act 44 over the MPC, the PTC must be expressly exempted from the requirements of the MPC. This could be accomplished by changing either Act 44 or the MPC itself.

- **Act 44:** Inclusion of language in Act 44 stating that the PTC has preemption over the requirements of local municipal governments. Language could be added to Section 8110, "Procedural requirements of acquisition," to the effect that property acquired by the PTC pursuant to Act 44 shall not be subject to requirements of local municipal ordinance. (See 74 Pa.C.S. §8110)
- **Municipal Planning Code Amendment:** Inclusion of the PTC in Section 11202, "General Repeal," of the MPC. Currently the General Repeal states:

*"All other acts and parts of acts are repealed in so far as they are inconsistent herewith, but this act shall not repeal or modify any of the provision of 66 Pa.C.S. Pt. I (relating to public utility code), 68 Pa.C.S. Pt. II Subpt. B (relating to condominiums) or any laws administered by the Department of Transportation of the Commonwealth of Pennsylvania." (53 P.S. §11202)*

Language regarding laws administered by the PTC could simply be added here. It is important to note that exemption from the MPC will not necessarily exempt the PTC from other statutory requirements, in particular requirements for stormwater management under DEP regulations.

### **Clean Fill Requirements**

PTC projects specifically the Southern Beltway, Mon/Fayette and mainline capacity adding projects require the handling of earthen material. Although our desire is to balance the earthen material so that no material is hauled to or from the construction project, it is often not practical based on stages of construction and topography. Recently, the presence of naturally occurring chemicals within the soils resulted in earthen material being considered regulated material.

- A Phase 1 Environmental Site Assessment (ESA) is completed for projects of this scope to determine if any hazardous waste was deposited or a hazardous waste spill occurred within the limits of the project.
- Earthen material contains naturally occurring chemicals inherent to the geology of Pennsylvania.
- Material that is considered regulated must be handled differently than normal, clean-fill waste.
- Regulated material based on the threshold of chemicals must be disposed of in landfills that specialize in controlled waste products which costs significantly more in hauling and wasting of material resulting in millions of dollars of expenditures.

**Recommended Solution:** Amend DEP, Bureau of Waste Management, Management of Fill Policy (Document Number: 258-2182-773) to exempt naturally occurring metals and inorganic constituents.

### **Utility Coordination**

PTC projects often require coordination with public utility companies to design and relocate utility facilities which are in conflict with the proposed construction. Utility relocation is particularly an issue on expansion projects such as the Southern Beltway, Mon/Fayette Expressway and other capacity adding projects on the Turnpike mainline. Early coordination with utilities is essential; however, utilities do not consider relocation work for transportation projects a priority. Utilities often do not attend project field-view meetings and are slow to provide the PTC with required paperwork (PennDOT Form 4181), cost estimates and relocation plans. Lack of participation by the utilities directly impacts project delivery and subsequently project costs.

- Lack of utility participation during the design process impacts planning and project scheduling for bidding purposes, delaying the start of projects.
- PTC relies on the information that the utilities provide when designing a project. When a utility does not meet timeframes that it has provided, construction contracts are delayed directly impacting project completion and increasing costs.

- PTC has no way to force a utility company to perform a relocation within the timeframes indicated by the company and contained within a project's bid documents.
- There is no third-party arbitrator to resolve issues or require a utility company to proceed forward with the relocation within the timeframes to which the utility company originally agreed.

**Recommended Solution:** The PTC is supportive of Senator Bartolotta's plan to introduce a Resolution directing the Legislative Budget and Finance Committee (LBFC) to conduct a comprehensive study examining the costs placed on Pennsylvania taxpayers as a result of road projects failing to meet deadlines due to delays associated with the relocation of public utilities. Items for consideration in this study may include:

- Require utility companies to provide timely responses to requests for information in accordance with the timeframes indicated in PennDOT Design Manual Part 5.
- Require utility companies to perform utility relocations within the timeframes that they originally indicated when they submitted their PennDOT Form 4181 and relocation plans.
- Require utility companies to be responsible for reimbursing the PTC for any delay costs that result from the utility's failure to perform the relocation within the timeframes they previously indicated.

#### **Acts 44 and 89**

As you are aware, in 2007, the legislature enacted Act 44, requiring the PTC to make quarterly payments to PennDOT for road and bridge projects and mass-transit operations across the Commonwealth. Since 2007, the PTC has made 35 quarterly payments totaling \$5.1 billion. As a result of Act 89 of 2013, our annual payments to PennDOT will be reduced from the current \$450 million a year to \$50 million a year beginning in June, 2023. We welcome this relief. Still, under current law, we will be responsible to make payments until June, 2057. While Act 89 does provide long-term financial relief, it does not eliminate our debt or funding obligation.

Before 2007, the PTC had total outstanding debt of \$2.7 billion including toll, oil franchise tax and registration-fee revenue bonds. Today, that number has grown to approximately \$10.8 billion of which \$5.4 billion is related to Act 44. What's more, by 2022, the PTC expects to issue an additional \$3.7 billion to support our 10-Year Capital Program and \$3 billion to provide funding for Act 44 payments. As a result, the PTC must continue to increase tolls annually for the foreseeable future to meet our funding obligations. At the moment, traffic and revenue forecasts predict annual toll increases of three to six percent will be required until 2044. These potential increases are estimates only based on traffic projections.

We are confident that we can continue to moderate toll increases through increased efficiencies; but revenue forecasts make it clear that we have no choice but to increase tolls as we move forward.

## Capital Plan

As mentioned earlier, our agency is 75 years old, and that is a great milestone. But it also means that we have many needs along the original 550-mile system as well as our many extensions. We are in the midst of a capital plan to rebuild and expand the Turnpike, investing more than \$600 million a year in road and bridge improvements; today, we have more than \$1.7 billion worth of active construction projects under way across our system. However, it is unrealistic to maintain such an aggressive Capital Plan with our burgeoning debt. In the fall of 2015, Standard and Poor's downgraded our bonds to A from A+ and any further downgrade will dramatically impact our bonding capabilities.

A major component of our Capital Plan is our total reconstruction program which rebuilds and widens the roadway from the ground up. The total reconstruction program has been in place for 15 years. Our production over that time has been averaging 7.6 miles of Turnpike reconstructed per year. We have approximately 450 miles of roadway that must be rebuilt from the ground up and widened from four lanes to six. With 114 miles completed to date, that leaves 336 miles to be reconstructed. At the current production, it will take almost 45 years to complete the total reconstruction. At this rate it will mean that even the youngest pavement could be as old as 100 years old — well beyond its useful life — before it gets replaced.

Initially, reconstruction projects were averaging \$10 million per mile. Over the years, the projects have become more complex, now averaging more than \$15 million per mile — much higher in urban areas. For example, the Turnpike's milepost 242 to 245 reconstruction project — just now getting under way in York County — is being widened at a cost of more than \$25 million per mile.

In addition to the improved safety and mobility for travelers, our reconstruction projects also benefit our state's economy. Over a five-year period, the PTC's capital plan will generate \$8.3 billion in total economic output, \$236 million in local and state tax revenues and 95,000 full and part-time jobs for the Commonwealth.

It is obvious that we are racing against the clock due to the age of our system, working to stay ahead of pavement deterioration to provide a fit roadway for the future. Therefore, it is critical to mention that the PTC will be deferring projects in our 10-year capital plan in an attempt to moderate future toll increases.

Last June, PTC Chairman Sean Logan provided members a breakdown of ongoing construction projects, a summary of the capital plan work done to date and a map showing completed, in-progress, and future projects statewide. These essential improvements are made possible only due to incremental toll increases, to the PTC's strong bond rating and to our efforts to operate efficiently so that we can invest back into our system.

Again, thank you for this opportunity and I welcome any comments or questions from the Committee.



PA-576 Southern Beltway (US-22 to I-79) Schedule & Construction Costs - January, 2016



