

OHIO TURNPIKE COMMISSION

Resolution Directing that Legal Proceedings be Initiated to Require the Owners of Fiber-Optic Cable Lines to Remove Such Lines from the Norfolk Southern Railroad Bridge in Order to Commence the Bridge Reconstruction Project at Milepost 182.0

RESOLVED that the Commission has determined that it is necessary to reconstruct the Norfolk Southern Railroad Bridge structure located at Ohio Turnpike Milepost 182.0 in Summit County in order to proceed with the third-lane expansion project;

WHEREAS, the Commission entered into separate Agreements with the Cleveland & Pittsburgh Railroad Company and the Pennsylvania Railroad Company on May 3, 1954, which companies are now operated by their successor, the Norfolk Southern Railroad Co.;

WHEREAS, the Commission was granted an easement in perpetuity under said agreements to construct and maintain the Ohio Turnpike upon and over the Railroad's land, and the Commission further agreed to construct and maintain the bridge located at Milepost 182.0;

WHEREAS, the Agreement required the Railroad to obtain the approval of the Chief Engineer of the Commission prior to attaching any electric or communication wires to the bridge;

WHEREAS, fiber-optic cable lines have been placed on the bridge by AT&T, Worldcom, Broadwing, and Level 3 Communications without the approval of the Commission's Chief Engineer, and which cable lines must be removed prior to the commencement of the Bridge Reconstruction Project;

BE IT FURTHER RESOLVED that proceedings be begun and prosecuted to enforce the terms and conditions of the perpetual easement and legal rights granted to the Commission pursuant to the Agreement in effect between the Norfolk Southern Railroad and the Commission dated May 3, 1954;

FURTHER RESOLVED that the general counsel be, and she is hereby instructed to do or cause to be done all things that may be appropriate or necessary, whether by agreement or through legal proceedings, to ensure the removal of the fiber optic cable lines by the respective owners from the bridge in order to ensure the commencement of the Bridge Reconstruction Project. Any agreement reached with the respective parties shall be subject to the approval of the Commission.

(Resolution No. 6-2003 adopted February 10, 2003)

I, Gary C. Suhadolnik, Assistant Secretary-Treasurer of the Ohio Turnpike Commission, do hereby certify that the above is a true copy of the aforesaid resolution which was duly adopted at a meeting of the Commission, duly called for and convened and held on February 10, 2003, at which a quorum was at all times present and voting.

WITNESS my hand and the seal of the Ohio Turnpike Commission on this 10th day of February, 2003.

Gary C. Suhadolnik
Assistant Secretary-Treasurer