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Lancaster, Pennsylvania 17608-0539

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

Melvin E. Newcomer

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David S. Kluxen, Jr.  
(1977 - 1993)

March 15, 2011

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James McNulty, Secretary  
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
Commonwealth Keystone Building  
400 North Street - Filing Room  
Harrisburg, PA 17120

Re: **Application of Consolidated Rail Corporation for  
the Abolition of 31 Crossings of the Enola Branch,  
LC: 201323, MP 3.5 to MP 27.0, Sub No. 1095 X,  
Harrisburg Division, Lancaster County; Docket No.  
A-00111016**

**Board of Supervisors of Bart Township v.  
Consolidated Rail Corporation, Pennsylvania  
Department of Transportation and Lancaster County,  
et al.; Docket No. C-00913256**

**PETITION OF PROVIDENCE TOWNSHIP, LANCASTER COUNTY  
TO MODIFY PORTIONS OF THE OCTOBER 9, 1997 OPINION  
AND ORDER ENTERED BY THE PENNSYLVANIA PUBLIC  
UTILITY COMMISSION**

Dear Secretary McNulty:

Our firm represents Providence Township. Enclosed for filing are the original and three copies of a Petition to modify an Order of the Pennsylvania Public Utility Commission entered in the above-referenced action. In addition to the original and copies being forwarded to your office, I have arranged for service on all parties who were previously involved in this matter, as identified in the Certificate of Service attached to the Petition.

Re: **Pennsylvania Public Utility Commission**  
**March 15, 2011**  
**Page 2**

Also enclosed is an additional copy of the Petition. I would appreciate if you could return a stamped-in copy of the Petition reflecting the filing date in the envelope which I have provided.

Thank you for your consideration in this matter. If you need any additional information, please do not hesitate to contact me.

Very truly yours,



MELVIN E. NEWCOMER

MEN:pam  
Enclosures  
cc: Providence Township Board of Supervisors

CERTIFIED MAIL NO. 7008 1300 0001 3649 8592  
RETURN RECEIPT REQUESTED



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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Consolidated Rail Corporation for the Abolition of 31 Crossings of the Enola Branch, LC: 201323, MP 3.5 to MP 27.0, Sub No. 1095X, Harrisburg Division, Lancaster County	:	Docket No. A-00111016
	:	
Board of Supervisors of Bart Township	:	Docket No. C-00913256
	:	
vi.	:	
	:	
Consolidated Rail Corporation, Pennsylvania Department of Transportation and Lancaster County, et al.	:	

PETITION OF PROVIDENCE TOWNSHIP, LANCASTER COUNTY  
TO MODIFY PORTIONS OF THE OCTOBER 9, 1997 OPINION AND ORDER  
ENTERED BY THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Providence Township, Lancaster County, Pennsylvania ("Petitioner" or "Township"); by and through its counsel in this matter, and pursuant to 66 Pa.C.S. § 703(g) and 52 Pa. Code § 5.572, hereby files this Petition ("Petition") to modify portions of the Opinion and Order entered by the Pennsylvania Public Utility Commission ("Commission") in connection with the above-captioned matters. In support of the requests contained herein, the Township represents as follows:

1. The name and address of the Petitioner is:

Providence Township  
Providence Township Municipal Office  
200 Mt. Airy Road  
New Providence, PA 17560-9781

2. The name and address of counsel for the Petitioner is:

Melvin E. Newcomer, Esquire  
Kluxen & Newcomer  
339 North Duke Street  
P. O. Box 539  
Lancaster, PA 17608-0539

3. On October 9, 1997, the Commission entered an Opinion and Order ("1997 Order")<sup>1</sup> approving a Stipulation of Settlement dated February 25, 1997 ("1997 Settlement") entered into by multiple parties, including Petitioner, and Consolidated Rail Corporation ("Conrail"). The 1997 Settlement resolved various issues in connection with an application filed by Conrail to abolish 31 crossings where the Enola Branch, Harrisburg Division, crossed above and below certain highways in a total of eight (8) municipalities in Lancaster and Chester Counties, Pennsylvania, including eleven (11) crossings in Providence Township.

4. By Deed dated May 19, 1999, and recorded on October 5, 1999, in the Office of the Recorder of Deeds for Lancaster County, Pennsylvania, in Deed Book 6403 at page 1 through 179, Conrail's interest in Enola Branch, Harrisburg Division, was conveyed to Pennsylvania Lines, LLC. Norfolk Southern Railway Corporation ("Norfolk Southern") is the successor-in-interest to Pennsylvania Lines, LLC as the result of a merger that became effective

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<sup>1</sup> The 1997 Order adopted the September 15, 1997 Recommended Decision of the Administrative Law Judge Louis G. Cocheres, with some modifications.

August 27, 2004. Due to the transfer and merger described above, Norfolk Southern is now responsible for all obligations assigned to Conrail by the 1997 Order.

5. This Petition is filed only with respect to the crossing identified in the 1997 Order as Crossing No. 21 (Hollow Road (West)) ("Crossing No. 21"). The railroad right-of-way at this Crossing was transferred from Norfolk Southern to Providence Township by Quitclaim Deed dated July 24, 2008, and recorded in the Office of the Recorder of Deeds for Lancaster County, Pennsylvania on July 28, 2008 as Document ID No. 5723039.

6. Crossing No. 21 is a below-grade crossing where Hollow Road (West) (T-498) (AAR/DOT #518 207S) crosses under the railroad right-of-way in Providence Township, Lancaster County. The bridge at this Crossing is a stone arch culvert that is 58' in length and is located beneath the railroad embankment. The bridge headwalls, wingwalls and abutments are constructed of cut stone masonry. The bridge has a maximum vertical clearance of 14'8" at the center of the arch and a horizontal clearance of 20'. Recommended Decision, p.65; Conrail St. No. 1. Xing 21, ¶ 4; Providence Twp. St. No. 2, pp. 20-21.

7. Hollow Road (West) is a two-lane paved macadam highway with a width (including shoulders) of approximately 22' as it approaches Crossing No. 21 and a width of 20' through the Crossing.

The grade of the roadway is fairly level; however, the road curves through the Crossing, creating some sight distance restrictions for vehicles traveling in both directions. Recommended Decision, pp. 66-67; Providence Twp. St. No. 1, pp.20-21.

8. As part of the 1997 Settlement, Conrail agreed to abolish the bridge structure at Crossing No. 21 and realign Hollow Road (West), as necessary. Providence Township agreed to maintain the roadway at its sole expense. 1997 Settlement, ¶ 6.10.

9. The 1997 Order adopted the provisions of the 1997 Settlement with regard to Crossing No. 21 and ordered as follows:

113. That the Crossing where Hollow Road (West) crosses under the right-of-way of Consolidated Rail Corporation in Providence Township, is hereby abolished, upon completion of the work herein ordered.
114. That Consolidated Rail Corporation, having agreed to do so, at its initial cost and expense, within one (1) year from the date of entry of this Opinion and Order, furnish all materials and do all work necessary to remove the bridge substructure and superstructure to a point two (2) feet below the surrounding ground line, and to grade the embankments behind the structure to a two-to-one slope, and to grade, seed and mulch the areas thus disturbed to prevent soil erosion, all in a safe and satisfactory condition.
115. The Consolidated Rail Corporation, having agreed to do so, at its initial cost and expense, shall, in the removal of the structure, make any necessary provisions for protection and stability of the National Railroad Passenger Corporation's electrical system poles.

116. That the Consolidated Rail Corporation, within one year of the date of entry of this Opinion and Order, at its initial cost and expense, furnish all material and do all work necessary to reconstruct the highway on a new alignment.
117. That the non-carrier utilities involved, if any, each at its sole cost and expense, except as noted in Ordering Paragraph No. 17,<sup>2</sup> above, furnish all materials and do all work necessary, in order to accommodate abolition of the Crossing.
118. That Providence Township, at its sole cost and expense, bear the costs of the right-of-way damages incurred to reconstruct the highway on a new alignment.
119. That Providence Township, at its sole cost and expense, upon completion of the work herein ordered, furnish all materials and do all work necessary to maintain the highway approaches to the abolished Crossing in a safe and satisfactory condition.

1997 Order, pp. 65-66 (footnote added).

10. Providence Township desires that the bridge structure at Crossing No. 21 remain in place in order to maintain its historical significance. In addition, if the relief requested by this Petition is granted and Crossing No. 21 is abolished with the structure remaining in place, the continuity of the recreational trail to be developed along the right-of-way within the Township will be maintained because all other crossings between No. 18 and

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<sup>2</sup> Ordering Paragraph 17 of the Order states as follows: "That the transmission or pipe line none-carrier utilities may be reimbursed in accordance with the terms and conditions of the Consolidated Rail Corporation and Township Stipulation of Settlement (Conrail Ex. No. 6A)." 1997 Order p. 46.

No. 25 were abolished by the 1997 Order, without removal of the bridge structures. 1997 Order, pp. 63-65, 67-69.

11. At the time of the initial Order, the existence of the recreational trail was in question; however, the recreational trail is now a reality and will be enhanced by maintaining the bridge at Crossing No. 21.

12. In support of this request, Providence Township's engineer, RAV Associates, performed a traffic study (hereinafter "Traffic Study") on Hollow Road during the week of November 29, 2010, to determine the Average Daily Traffic (ADT) and the 85<sup>th</sup> Percentile Speed on the road. A true and correct copy of the Traffic Study is attached hereto.

13. The Traffic Study demonstrates that Hollow Road is a little-used road with an Average Daily Traffic count of 290 vehicles and an 85<sup>th</sup> percentile speed of 39-40 miles per hour: Paragraph 3.0 of the attached Study.

14. As part of its proposal to retain Crossing No. 21 and at the recommendation of its engineer, Providence Township will implement a signage plan, prepared by its engineer, which plan is based upon the criteria contained in the American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets and the Manual on Uniform Traffic Control Devices (MUTCD). A true and correct copy of the

signage plan prepared by RAV Associates and dated January 17, 2011, is attached hereto.

15. The implementation of the signage plan, as proposed, will upgrade the safety of Hollow Road; provide for a signed roadway that complies with the current guidelines of AASHTO and MUTCD; and avoid the necessity of abolishing the bridge structure at Crossing No. 21.

16. If this Petition is granted and the bridge structure at Crossing No. 21 remains in place, Providence Township agrees, at its own cost and expense, to maintain the bridge substructure, superstructure and abutments, as well as the roadway and approaches.

**MODIFICATIONS REQUESTED TO BE MADE TO THE 1997 ORDER**

17. For the reasons set forth above, Petitioner respectfully requests that Ordering Paragraphs 113 through 119 of the Commission's 1997 Order entered in the above-captioned matters be modified to read as follows (Note: Underlined language to be added and language in bold to be eliminated):

113. That the Crossing where Hollow Road (West) crosses under the right-of-way of Consolidated Rail Corporation in Providence Township is hereby abolished, **upon completion of the work herein ordered** with the structure remaining in place.

114. That Providence Township, having agreed to do so at its sole cost and expense, shall furnish all materials and do all work necessary to maintain the bridge, substructure and superstructure at this location. **That Consolidated Rail**

Corporation, having agreed to do so, at its initial cost and expense, within one (1) year from the date of entry of this Opinion and Order, furnish all materials and do all work necessary to remove the bridge substructure to a point two (2) feet below the surrounding ground line, and to grade the embankments behind the structure to a two to one slope, and to grade, seed and mulch the areas thus disturbed to prevent soil erosion, all in a safe and satisfactory condition.

115. [REMOVED]. That Consolidated Rail Corporation, having agreed to do so, at its initial cost and expense, shall, in the removal of the structure, make any necessary provisions for protection and stability of the National Railroad Passenger Corporation's electrical system poles.
116. That Providence Township Consolidated Rail Corporation within one year of the date of entry of this Opinion and Order, at its sole initial cost and expense, furnish all material and do all work necessary to reconstruct the highway on a new alignment, if and when necessary.
117. That the non-carrier utilities involved, if any, each at its sole cost and expense, except as noted in Ordering Paragraph No. 17, above, furnish all materials and do all work necessary to alter or relocate its facilities as necessary, in order to accommodate abolition of the Crossing.
118. That Providence Township, at its sole cost and expense, bear the costs of the right-of-way damages incurred to reconstruct the highway on a new alignment, if and when necessary.
119. That Providence Township, at its sole cost and expense, **upon completion of the work herein ordered**, furnish all materials and do all work necessary to maintain the highway approaches to the abolished Crossing in a safe and satisfactory condition.

18. In addition to the modifications identified above, Petitioner also requests that:

(a) The one(1) year deadline for removal of the bridge structure at Crossing No. 21 set forth in Ordering Paragraph 114 of the 1997 Order be stayed until such time as the Commission has ruled on this Petition; and

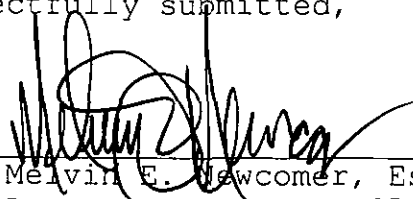
(b) Should the Commission deny the relief requested in this Petition and require the bridge structure at Crossing No. 21 to be removed as set forth in Ordering Paragraph 114 of the 1007 Order, Norfolk Southern be granted an extension of time to comply with the terms of this provision of the 1997 Order, which extension of time is at least twelve (12) months from the date on which the Commission enters an Order with regard to this Petition; and

(c) Except as identified in this Petition, all other provisions of and obligations and rights set forth in the Commission's October 9, 1997 Opinion and Order shall remain in full force and effect.

WHEREFORE, Providence Township, Lancaster County, Pennsylvania respectfully requests that the relief sought in this Petition be granted and that the Commission's October 9, 1997 Opinion and Order be modified as set forth above.

Respectfully submitted,

By: \_\_\_\_\_

  
Melvin E. Newcomer, Esquire  
Attorney-I. D. No. 27605  
Attorney for Providence Township  
P. O. Box 539  
339 North Duke Street  
Lancaster, Pennsylvania 17608-0539  
(717) 393-7885  
(717) 393-0382 (Fax)  
melvinn@epix.net (e-mail)

DATED: March 15, 2011

Counsel for Providence Township



January 17, 2011

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Providence Township  
Board of Supervisors  
200 Mount Airy Road  
New Providence, PA 17560

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

ATTN: C. William Shaffer, Chairman

RE: PT-43, Hollow Road

Dear Bill:

As requested, RAV Associates, Inc. has prepared a signage plan for the arch railroad bridge on Hollow Road. The signage plan has been prepared based upon the criteria contained in American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets and the Manual on Uniform Traffic Control Devices (MUTCD).

The purpose of the plan is to provide an alternative for the removal of the rail road bridge/tunnel that crosses Hollow Road. On December 14, 2010, we completed a traffic study for Hollow Road and determined the average daily traffic (ADT) to be 290 vehicles per day. It is understood that the cost to remove the bridge and replace it with a pedestrian bridge is very high for such a low volume of traffic. If you decide to keep the bridge/tunnel based on the above factors, I would recommend the following signs be installed according to the attached signage plan. This will upgrade the safety of the roadway in order to comply with the current guidelines set forth by AASHTO and MUTCD.

**NUMBER OF SIGNS AND DESIGNATIONS (SEE ATTACHED SIGNAGE PLAN)**

Number of Signs	Type	Size	Designation
2	Yield	30" x 30" x 30"	R1-2
2	Yield to Oncoming Traffic	24" x 12"	R1-2a

RAV Associates, Inc.  
Engineers - Consultants  
14 Main Street Landisville, PA 17538  
(717) 898-8100 Fax: (717) 898-5255

RE: PT-43, Hollow Road

DATE: January 17, 2011

2	Yield Ahead	30" x 30"	W3-2
2	One Lane Bridge	30" x 30"	W5-3
4	Low Clearance (14'-0")	36" x 36"	W12-2
2	Low Clearance (Rectangular)	84" x 24"	W12-2p

The vertical clearance signs should be placed on the face of the arch in a location where 14'-3" vertical clearance is measured from the cartway surface to the bottom of the arch.

The same location from the center of the arch must be used on both sides of the arch to provide truck drivers with the proper location to drive through the arch. The lowest side of the arch controls the location. Please see the attached signage plan for more details.

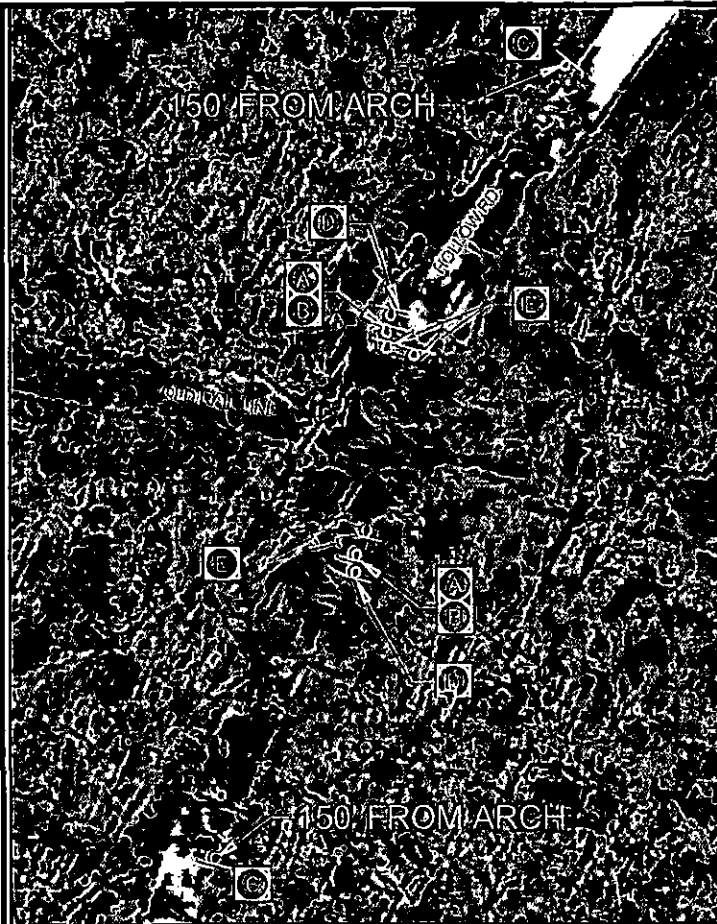
If you should have any questions concerning this matter, please feel free to contact me.

Sincerely,

**Robert  
Visniski**

Digitally signed by Robert  
Visniski  
DN: cn=Robert Visniski, o=RAV  
Associates Inc. ou,  
email=robv@ravassociates.com,  
c=US  
Date: 2011.01.20 07:16:53 -0500

Robert A. Visniski, P.E.  
President



SKETCH PLAN

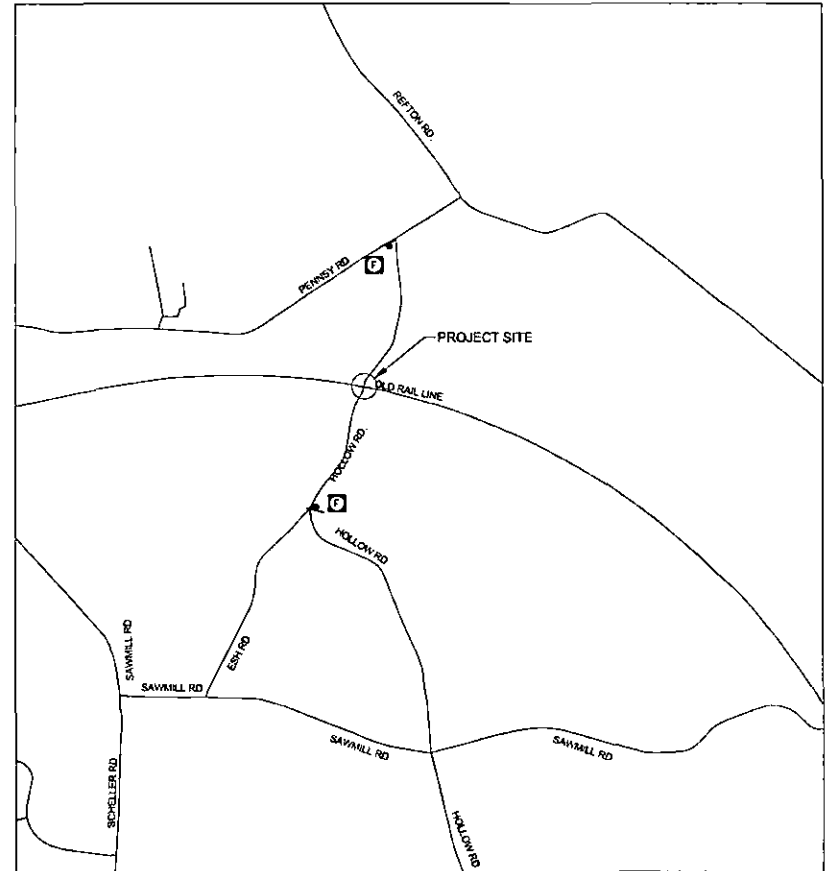


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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU



LOCATION MAP  
SCALE 1" = 1000'



RAV ASSOCIATES INC.  
ENGINEERS - CONSULTANTS  
14 Main Street, Landisville, PA  
17538 (717) 898-8100

SIGN LEGEND

PLAN SYMBOL	DESCRIPTION	SIZE (WxH)	SERIES DESIGNATION
A	YIELD	30"x30"x30"	R1-2
B	TO ONCOMING TRAFFIC	24" x 12"	R1-2a
C	YIELD AHEAD	30" x 30"	W3-2
D	ONE LANE BRIDGE	30" x 30"	W5-3
E	LOW CLEARANCE SIGN	36" x 36"	W12-2
F	LOW CLEARANCE SIGN	84" x 24"	W12-2p

HOLLOW ROAD SKETCH PLAN

JOB NO. PT-43	SCALE: NONE	DATE: 1-15-2011	SHEET: 1 OF 1
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MAR 15 2011

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties listed below, in accordance with the requirements of 52 PA. Code §1.54 (relating to service by a party).

**Service by First Class U.S. Mail:**

Gina M. D'Alfonso, Esquire  
Asst. Counsel in Charge, Utility Sect.  
PennDot  
Office of Chief Counsel  
P.O. Box 8212  
Harrisburg, PA 17105-8212

Benjamin C. Dunlap, Jr., Esquire  
Naumann Smith Shissler & Hall  
200 North Third Street  
P.O. Box 840  
Harrisburg, PA 17108-0840

David Screven, Esquire  
Pennsylvania Public Utility Commission  
Legal Division  
Bureau of Transportation & Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Dennis M. Moore  
National Railroad Passenger  
Corporation (AMTRAK)  
60 Massachusetts Avenue, NE  
Washington, DC 20002

Matthew J. Creme, Jr., Esquire  
Nikolaus & Hohenadel, LLP  
212 North Queen Street  
Lancaster, PA 17603

Joyce A. Nettke, Esquire  
FAST  
P. O. Box 27  
Strasburg, PA 17579

John Chase  
Quarryville Water Authority  
300 St. Catherine Street  
Quarryville, PA 17566

David Dulick  
Pennsylvania Power & Light  
2 North Ninth Street  
Allentown, PA 18101

Suburban Cable Company  
Legal Department  
202 Shoemaker Road  
Pottstown, PA 19464

Lancaster County Planning  
Commission  
150 N. Queen St.-Suite 320  
Lancaster, PA 17603

Lancaster County  
Commissioners  
150 N. Queen St.-Suite 715  
Lancaster, PA 17603

Coatesville City Authority  
One City Hall Place  
Coatesville, PA 19320

Bart Township Supervisors  
46 Quarry Road  
Quarryville, PA 17566

Conestoga Township Supervisors  
3959 Main Street  
P. O. Box 98  
Conestoga, PA 17516

Eden Township Board of Supervisors  
489 Stony Hill Road  
Quarryville, PA 17566

Martic Township  
370 Steinman Farm Road  
Pequea, PA 17565

Borough of Quarryville  
300 St. Catherine Street  
Quarryville, PA 17566

Sadsbury Township  
7182 White Oak Road  
Christiana, PA 17509

Kenelm Shirk, III, Esquire  
Solicitor, Bart Township  
115 South State Street  
Ephrata, PA 17522

Janice L.M. Longer, Esquire  
Solicitor, Eden Township  
8 North Queen Street  
Suite 700F  
Lancaster, PA 17603-3827

Office of Trial Staff  
PA Public Utility Comm.  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Dated: March 15, 2011

Fronefield Crawford, Jr.  
Montgomery McCracken Walker  
& Rhoads, LLP  
1235 Westlakes Drive  
Suite 200  
Berwyn, PA 19312-2401

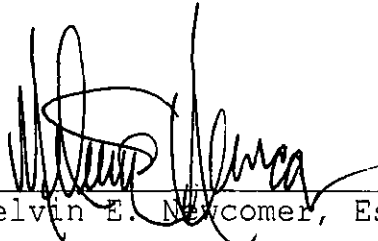
William Crosswell, Esq.  
Morgan Hallgren Crosswell  
& Kane, PC  
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Solicitor, Quarryville  
Borough  
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& Kane, PC  
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Lancaster, PA 17604-4686

James H. Thomas, Esquire  
Blakinger, Byler & Thomas  
Solicitor for Sadsbury and  
Conestoga Townships  
28 Penn Square  
Lancaster, PA 17603

Office of Consumer Advocate  
555 Walnut Street  
Forum Place - 5th Floor  
Harrisburg, PA 17101-1923

Office of Small Business  
Advocate  
Suite 1102, Commerce Bldg.  
300 North 2nd Street  
Harrisburg, PA 17101

  
Melvin E. Newcomer, Esquire

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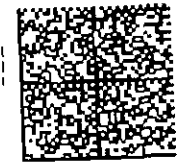


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**KLUXEN & NEWCOMER  
ATTORNEYS AT LAW**

339 North Duke Street  
P.O. Box 539  
Lancaster, Pennsylvania 17608-0539

FORWARDING & ADDRESS CORRECTION REQUESTED



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**\$ 010.950**  
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