



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

March 23, 2011

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

RE: **Docket No. A-00111016 and C-00913256**

Dear Secretary Chiavetta:

Enclosed for filing please find the original and one (1) copy of the *Motion to Strike the Petition of Providence Township* in the above-captioned matter.

I hereby certify that a copy of the Department's Response has been sent to all parties of record as indicated on the *Certificate of Service*.

Very truly yours,

Gina M. D'Alfonso  
Assistant Counsel in Charge

Enclosures  
220/GMD:gw

cc: Parties of Record  
Rod Bender, Pennsylvania Public Utility Commission  
Mark Chappell, P.E., Chief, Utilities and Right-of-Way Section  
Ahmed Lasloudji, Grade Crossing Administrator, District 8-0

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Application of Consolidated Rail Corporation for the abolition of thirty-one crossings of the Enola Branch, LC201323, MP 3.5 to MP 27.0, Sub No. 1095X, Harrisburg Division, Lancaster County,</b>	:	
	:	
	:	<b>Docket No. A-00111016</b>
	:	
	:	
	:	
<b>Board of Supervisors of Bart Township,</b>	:	
	:	
	:	
v.	:	<b>Docket No. C-00913256</b>
	:	
	:	
<b>Consolidated Rail Corporation, and the Pennsylvania Department of Transportation and Commissioners of the County of Lancaster, et al.</b>	:	

**MOTION TO STRIKE  
THE PETITION OF PROVIDENCE TOWNSHIP**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation (“Department”) and hereby files the following Motion to Strike the Petition filed by Providence Township (Township):

1. Township filed a similar Petition before the Public Utility Commission (Commission) on or about November 17, 2009, seeking the same relief. The Department and the Bureau of Transportation and Safety Prosecutory Staff filed responses. The initial petition resulted in an Order entered February 16, 2010, assigning the matter to the Office of Administrative Law Judge.

2. On or about June 11, 2010, Township filed a Petition to Withdraw Request to Modify Opinion and Order of the Pennsylvania Public Utility Commission citing that it has determined it no longer has the financial capability to pursue its request that the Hollow Road (West) bridge structure remain in place and that Norfolk Southern be given one year to remove the structure. This request was granted by Order of the Commission entered September 8, 2010.
3. The Department had no objection to the relief sought by Providence Township. However, it remains unclear that the maintenance Township intends to undertake would also include the inspection of the structure on a regular basis. It is advisable that this structure, as with any other structure remaining in place, be inspected on a regular basis to insure it remains in a safe condition, especially if it is intended for recreational use.
4. As noted in the February 16, 2010, Order of the Commission, "the proper course at this point would be for this matter to be assigned to the OALJ for the scheduling of an evidentiary hearing on the issue of public safety concerns relative to the subject crossing".
5. Township has offered some potential engineering solutions to the safety concerns at this crossing based upon a traffic study and a signage plan. However, the copy of the Petition received by the undersigned did not have a copy of the traffic

study. Further, to the extent that the traffic study and signage plan are facts not in the record, the copy of the Petition received by the undersigned also lacked a verification.<sup>1</sup>

6. The Department moves to strike Petition to Modify Portions of the October 9, 1997, Order due to the fact that it is incomplete and lacks a verification for the facts being offered that are not of record in accordance with 52 Pa. Code 1.36.

---

<sup>1</sup> At the time of preparing this response, the Petition was not available for viewing on the PUC website so it is unknown if the document as filed had a traffic study or a verification.

Wherefore, the Department of Transportation respectfully requests that the Public Utility Commission Strike the Petition filed by Providence Township or in the alternative, take into consideration the need for continued inspection of structures remaining in place and the facts that are already of record in this matter and if appropriate, again refer the matter to the Office of Administrative Law Judge.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION



Gina M. D'Alfonso  
Assistant Counsel in Charge  
Pennsylvania Attorney I.D. Number 46767  
Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel  
P.O. Box 8212  
Harrisburg, PA 17105-8212  
Telephone No. (717) 787-3128  
Fax Number (717) 772-2741  
[gdalfonso@state.pa.us](mailto:gdalfonso@state.pa.us)

DATED: March 23, 2011

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Application of Consolidated Rail Corporation for the abolition of thirty-one crossings of the Enola Branch, LC201323, MP 3.5 to MP 27.0, Sub No. 1095X, Harrisburg Division, Lancaster County,</b>	:	
	:	
	:	<b>Docket No. A-00111016</b>
	:	
	:	
	:	
<b>Board of Supervisors of Bart Township,</b>	:	
	:	
	:	
<b>v.</b>	:	<b>Docket No. C-00913256</b>
	:	
	:	
<b>Consolidated Rail Corporation, and the Pennsylvania Department of Transportation and Commissioners of the County of Lancaster, et al.</b>	:	
	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below, in accordance with the requirements of 52 Pa. Code § 1.54, by first class mail, postage prepaid:

**Notification by first class mail addressed as follows:**

Scott T. Wyland, Esquire  
Hawke, McKeon & Sniscak, LLP  
100 North Tenth Street  
P.O. Box 1778  
Harrisburg, PA 17105

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

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

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

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

John Chase  
Quarryville Water Authority  
300 Saint Catherine Street  
Quarryville, PA 17566

Office of Special Assistants  
PA Public Utility Commission  
North Office Building – Room 210  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Borough of Quarryville  
330 Saint Catherine Street  
Quarryville, PA 17566

City of Coatesville Authority  
One City Hall Place  
Coatesville, PA 19320

DEP - Office of Chief Counsel  
P.O. Box 8464  
Harrisburg, PA 17105-8464

Ms. Kim Flowers  
PPL Electric Utilities Corporation  
Two North Ninth Street/GENTW19  
Allentown, PA 18101-1179

Comcast Communications, Inc.  
Legal Department  
1131 South Duke Street  
Lancaster, PA 17602

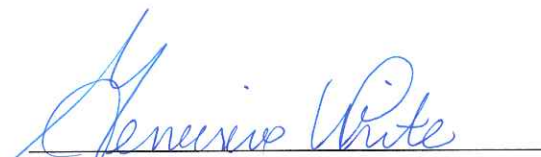
Sadsbury Township  
1077 White Oak Road  
Christiana, PA 17509

Donald LeFever, Esquire  
Solicitor for Lancaster County  
Lancaster County Courthouse  
50 North Duke Street  
P.O. Box 83480  
Lancaster, PA 17602

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

Benjamin C. Dunlap, Jr, Esquire  
Nauman, Smith, Shissler & Hall, LLP  
200 North Third Street, 18<sup>th</sup> Floor  
PO Box 840  
Harrisburg, PA 17108-0840

March 23, 2011



Genevieve White, Legal Assistant to  
Gina M. D'Alfonso, Esquire  
Assistant Counsel-in-Charge  
Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel  
P.O. Box 8212  
Harrisburg, PA 17105-8212  
Telephone No. : (717) 787-3128