



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

September 20, 2011

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

RE: **Docket No. C-20054822**

Dear Secretary Chiavetta:

Enclosed for filing please find the original and one (1) copy of the Department's Motion *to Modify Order Entered July 26, 2007* in the above-captioned matter.

I hereby certify that a copy of the Department's Motion 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
Mark Chappell, P.E., Acting Chief, Right-of-Way and Utilities Division
Rodney Rehnert, Grade Crossing Administrator, District 5-0

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Whitehall Township

C-20054822

v.

Electronically filed

R.J. Corman Railroad Company

MOTION TO MODIFY ORDER ENTERED JULY 26, 2007

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation, (“Department”), by and through its counsel, Gina M. D’Alfonso, Assistant Counsel in Charge and offers the following in support of its Petition to Modify Order in the above referenced matter:

1. The name and address of the moving party is:

Commonwealth of Pennsylvania
Department of Transportation
Bureau of Design
P.O. Box 3362
Harrisburg, Pennsylvania 17105-3362

2. The name and address of Counsel for the moving party is:

Gina M. D’Alfonso
Assistant Counsel in Charge
Commonwealth of Pennsylvania
Department of Transportation
Office of Chief Counsel
P.O. Box 8212
Harrisburg, Pennsylvania 17105-8212

3. The order entered July 26, 2007, directed the Department to prepare a drainage study and to complete repairs to the subject retaining wall. Due to difficulties in obtaining funding for design and construction as well as engaging the design consultant, the Department was unable to meet the schedule set forth in the Commission order.

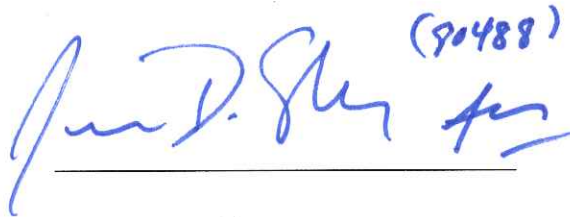
4. Funding is now in place and the Department anticipates letting the project in June 2012 with completion in one construction season, by December 31, 2013.

5. The Department respectfully requests that the Secretarial Letter be modified as follows (modifications are underlined or stricken):

9. That the Pennsylvania Department of Transportation, at its initial cost and expense, ~~after the expiration of six (6) months measured from the submission of the drainage study to all Parties,~~ shall furnish all materials and do all work necessary to repair the drainage system, as recommended in the study, and to repair the retaining wall, consistent with this Opinion and Order, and shall complete the repairs on or before December 31, 2013.

WHEREFORE, the Department of Transportation respectfully requests that the relief sought herein be granted.

Respectfully submitted,



Gina M. D'Alfonso
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

DATED: September 20, 2011

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VERIFICATION

I, Rodney Rehnert, Grade Crossing Administrator, for the Commonwealth of Pennsylvania, Department of Transportation, in this matter, hereby verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information and belief. I understand that this statement is made subject to penalties of 18 Pa. C.S. §4904, relating to the unsworn falsification to authorities.

DATED: _____

9/20/11



Rodney Rehnert
Grade Crossing Administrator

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the *Motion to Modify Order* was served upon the parties listed below, in accordance with the requirements of §1.54, by first-class mail, postage prepaid this 20th day of September, 2011.

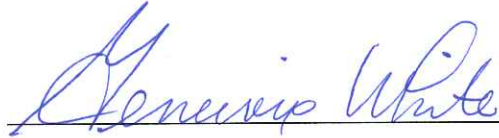
Frank Procyk, Esquire
Charles Falzone, Esquire
33 South 7th Street
Allentown, PA 18105

Thomas M. Caffrey, Esquire
535 High Street
Post Office Box 792
Pottstown, PA 19464

Janet L. Miller, Esquire
Hawke, McKeon & Sniscak, LLC
100 North 10th Street
Harrisburg, PA 17101

Rhonda Daviston, Esquire
PUC Law Bureau
Post Office Box 3265
Harrisburg, PA 17105-3265

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Genevieve White
Legal Assistant to Gina M. D'Alfonso
Assistant Counsel in Charge

DATED: September 20, 2011