

RECEIVED

2012 APR -4 PM 2:58

PA PUD
SECRETARY'S BUREAU

KLUXEN & NEWCOMER

ATTORNEYS AT LAW

339 North Duke Street

P. O. Box 539

Lancaster, Pennsylvania 17608-0539

Melvin E. Newcomer

Telephone No.
(717) 393-7885

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

April 4, 2012

Fax No.
(717) 393-0382

E-Mail Address
melvinn@epix.net

Administrative Law Judge Elizabeth H. Barnes
Administrative Law Judge Joel H. Cheskis
P. O. Box 3265
Harrisburg, PA 17105-3265

Re: **Providence Township/Hollow Road Bridge Matter**
Docket No. A-00111016
Docket No. C-00913256

Dear Judge Barnes and Judge Cheskis:

Pursuant to the telephone conference call which was held on Friday, March 30, 2012, I am enclosing a Joint Motion for the presentation of evidence to supplement the record in the above-referenced matter.

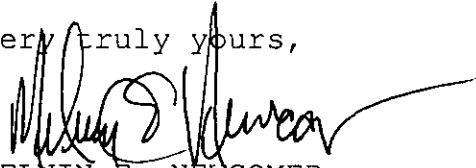
Also enclosed with this letter is an Addendum to the Stipulation of Settlement. As was pointed out during the conference call, Paragraph 117 was not identified in the Stipulation of Settlement. That Paragraph is to remain unchanged, and the Addendum confirms that fact.

I have also included a Statement of Support from Providence Township and a Statement signed by Greg Collins, Chairman of the Providence Township Board of Supervisors. This latter Statement is to be included as evidence in the record, in that it identifies the several additional conditions to which the Township has agreed.

Re: Providence Township/Hollow Road Bridge Matter
Docket No. A-00111016
Docket No. C-00913256
April 4, 2012
Page 2

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: Benjamin C. Dunlap, Jr., Esquire
David E. Screven, Esquire
Gina M. Alfonso, Esquire
Martha R. Smith, Esquire

RECEIVED
2012 APR -4 PH 3:00
PA FUC
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Consolidated Rail : Docket No. A-00111016
Corporation for the Abolition of 31 :
Crossings for the Enola Branch, LC201323, :
MP 3.5 to MP 27.0, Sub No. 1095X, :
Harrisburg Division, Lancaster County :
:
Board of Supervisors of Bart Township : Docket No. C-00913256
:
v. :
:
Consolidated Rail Corporation, :
Pennsylvania Department of Transportation: :
and Lancaster County, et al. :

JOINT MOTION FOR SUBMISSION OF EVIDENCE

The parties to this proceeding, being the Pennsylvania Department of Transportation ("PennDOT"), by its counsel, Gina M. D'Alfonso, Esquire; the Pennsylvania Public Utility Bureau of Transportation and Safety ("Bureau"), by its counsel, David E. Screven, Esquire; the Department of Conservation and Natural Resources ("DCNR") by its counsel, Martha R. Smith, Esquire; Norfolk Southern Railway Corporation ("Norfolk Southern"), by its counsel, Benjamin C. Dunlap, Jr., Esquire; and Providence Township ("Township"), by its counsel, Melvin E. Newcomer, Esquire, hereby submit this Joint Motion requesting that the following be submitted as evidence in support of the Stipulation of Settlement entered into by the parties and previously

PA PUC
SECRETARY'S BUREAU

2012 APR -4 PM 3:00

RECEIVED

submitted to Administrative Law Judge Elizabeth H. Barnes and Administrative Law Judge Joel H. Cheskis:

1. Traffic study dated December 14, 2010, prepared by RAV Associates, Inc., for Providence Township for Hollow Road, which road is located in Providence Township, Lancaster County, Pennsylvania and is under Crossing No.21. The traffic study was identified and attached to the Petition submitted by Providence Township in this matter.

2. A signage plan dated January 17, 2011, prepared by RAV Associates, Inc., for Providence Township identifying the signs which are to be attached to the Hollow Road bridge and erected in the immediate vicinity thereof. The signage plan was identified and attached to the Petition submitted by Providence Township in this matter.

3. A statement from Providence Township identifying the following:

(a) That in addition to the signs identified in the signage plan dated January 17, 2011, Providence Township will attach to both sides of the bridge signs identifying the side clearance of twenty (20) feet, which signs and markings shall be visible to approaching vehicle operators and which shall be installed in accordance with PennDOT Publication 236M, Handbook of Approved Signs, PA-DOT W12-2P, Low Clearance Sign.

(b) That in addition to the signs identified in the signage plan dated January 17, 2011, the Township will post advisory speed-reduction signs on both approaches to the bridge tunnel reducing the speed to twenty-five (25) miles per hour;

(c) That Township confirms that all emergency vehicles requiring access to properties in or about Hollow Road are able to travel through the bridge tunnel. In addition, while the Township is unaware of any commercial vehicles that are unable to travel through the bridge tunnel, the Township asserts that if there are any commercial vehicles of this type, there are adequate alternative routes for those vehicles to use;

(d) That Township will not create any additional public access to the recreational trail at or near Crossing No. 21 and will not create any additional public parking in that area for individuals using the recreational trail;

(e) That Township will submit an updated traffic study to the Bureau on or before February 28, 2015, to demonstrate that there has been no significant increase in the average daily traffic count of 290 vehicles identified in the 2010 traffic study; and,

(f) That Township shall perform a bi-annual, environs-only inspection of the bridge consistent with PennDOT specifications and requirements and provide a copy of that inspection report to PennDOT.

4. The parties believe that the evidence identified above supports the Stipulation of Settlement which has been submitted and respectfully request Administrative Law Judge Elizabeth H. Barnes and Administrative Law Judge Joel H. Cheskis to accept this Motion and incorporate the evidence as presented into the record.

WHEREFORE, all of the parties to this Motion request that the evidence identified above be submitted into the record.

Date: 4/3/12 *Benjamin C. Dunlap, Jr.*
Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway
Company

Date: _____
Gina M. D'Alfonso, Esquire
Pennsylvania Department of Transportation

Date: _____
David E. Screven, Esquire
Pennsylvania Public Utility Bureau of
Transportation and Safety

Date: _____
Martha R. Smith, Esquire
Department of Conservation and Natural
Resources

Date: _____
Melvin E. Newcomer, Esquire
Solicitor for Providence Township

RECEIVED
2012 APR -4 PM 3:00
PA PUC
SECRETARY'S BUREAU

4. The parties believe that the evidence identified above supports the Stipulation of Settlement which has been submitted and respectfully request Administrative Law Judge Elizabeth H. Barnes and Administrative Law Judge Joel H. Cheskis to accept this Motion and incorporate the evidence as presented into the record.

WHEREFORE, all of the parties to this Motion request that the evidence identified above be submitted into the record.

Date: _____
Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway
Company

Date: 4/3/12 _____
Gina M. D'Alfonso
Gina M. D'Alfonso, Esquire
Pennsylvania Department of Transportation

Date: _____
David E. Screven, Esquire
Pennsylvania Public Utility Bureau of
Transportation and Safety

Date: _____
Martha R. Smith, Esquire
Department of Conservation and Natural
Resources

Date: _____
Melvin E. Newcomer, Esquire
Solicitor for Providence Township

2012 APR -4 PM 3:00
PA PUC
SECRETARY'S BUREAU


RECEIVED

4. The parties believe that the evidence identified above supports the Stipulation of Settlement which has been submitted and respectfully request Administrative Law Judge Elizabeth H. Barnes and Administrative Law Judge Joel H. Cheskis to accept this Motion and incorporate the evidence as presented into the record.

WHEREFORE, all of the parties to this Motion request that the evidence identified above be submitted into the record.

Date: _____
Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway
Company

Date: _____
Gina M. D'Alfonso, Esquire
Pennsylvania Department of Transportation

Date: 4-4-2012

David E. Screven, Esquire
Pennsylvania Public Utility Bureau of
Transportation and Safety

Date: _____
Martha R. Smith, Esquire
Department of Conservation and Natural
Resources

Date: _____
Melvin E. Newcomer, Esquire
Solicitor for Providence Township

RECEIVED
2012 APR -4 PM 3:00:
PA PUC
SECRETARY'S BUREAU


4. The parties believe that the evidence identified above supports the Stipulation of Settlement which has been submitted and respectfully request Administrative Law Judge Elizabeth H. Barnes and Administrative Law Judge Joel H. Cheskis to accept this Motion and incorporate the evidence as presented into the record.

WHEREFORE, all of the parties to this Motion request that the evidence identified above be submitted into the record.

Date: _____
Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway
Company

Date: _____
Gina M. D'Alfonso, Esquire
Pennsylvania Department of Transportation

Date: _____
David E. Screven, Esquire
Pennsylvania Public Utility Bureau
Transportation and Safety

Date: 4-3-12 _____

Martha R. Smith, Esquire
Department of Conservation and Natural
Resources

Date: _____
Melvin E. Newcomer, Esquire
Solicitor for Providence Township

2012 APR -4 PM 2:59
PA P.U.C.
SECRETARY'S BUREAU

RECEIVED

2012 APR -3 PM 2:19
PA P.U.C.
LAW BUREAU

RECEIVED

4. The parties believe that the evidence identified above supports the Stipulation of Settlement which has been submitted and respectfully request Administrative Law Judge Elizabeth H. Barnes and Administrative Law Judge Joel H. Cheskis to accept this Motion and incorporate the evidence as presented into the record.


WHEREFORE, all of the parties to this Motion request that the evidence identified above be submitted into the record.

Date: _____
Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway
Company

Date: _____
Gina M. D'Alfonso, Esquire
Pennsylvania Department of Transportation

Date: _____
David E. Screven, Esquire
Pennsylvania Public Utility Bureau of
Transportation and Safety

Date: _____
Martha R. Smith, Esquire
Department of Conservation and Natural
Resources

Date: 4/3/12 _____

Melvin E. Newcomer, Esquire
Solicitor for Providence Township

RECEIVED
2012 APR -4 PM 2:59
PA PUD
SECRETARY'S BUREAU

RECEIVED

2012 APR -4 PM 2:59

PA PUC
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Consolidated Rail Corporation for the Abolition of 31 Crossings for the Enola Branch, LC201323, 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
v.	:	
Consolidated Rail Corporation, Pennsylvania Department of Transportation and Lancaster County, et al.	:	

ADDENDUM TO STIPULATION OF SETTLEMENT

WHEREAS the parties submitted a Stipulation of Settlement to Administrative Law Judge Elizabeth H. Barnes and Administrative Law Judge Joel H. Cheskis on or about March 22, 2012;

WHEREAS the Stipulation of Settlement requested that Paragraphs 113 through 119 of the Commission's 1997 Order be modified;

WHEREAS Paragraph 117 of the Commission's 1997 Order is to remain as written; however, the Stipulation did not specifically identify Paragraph 117; and,

WHEREAS the parties desire to amend the Stipulation to reflect that Paragraph 117 shall remain unchanged.

NOW, THEREFORE, the undersigned parties request that the Stipulation of Settlement be amended as follows:

1. Paragraph 117 of the Commission's 1997 Order shall remain unchanged, providing as follows:

117. That the non-carrier utilities involved, if any, each at its sole cost and expense, except as noted in Ordering Paragraph 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.

Date: 4/3/12 Benjamin C. Dunlap, Jr.
Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway
Company

Date: _____
Gina M. D'Alfonso, Esquire
Pennsylvania Department of Transportation

Date: _____
David E. Screven, Esquire
Pennsylvania Public Utility Bureau of
Transportation and Safety

Date: _____
Martha R. Smith, Esquire
Department of Conservation and Natural
Resources

Date: _____
Melvin E. Newcomer, Esquire
Solicitor for Providence Township

2012 APR -4 PM 2:59
PA PUC
SECRETARY'S BUREAU

RECEIVED

NOW, THEREFORE, the undersigned parties request that the Stipulation of Settlement be amended as follows:

1. Paragraph 117 of the Commission's 1997 Order shall remain unchanged, providing as follows:

117. That the non-carrier utilities involved, if any, each at its sole cost and expense, except as noted in Ordering Paragraph 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.

Date: _____
Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway
Company

Date: 4/3/12 _____
Gina M. D'Alfonso
Gina M. D'Alfonso, Esquire
Pennsylvania Department of Transportation

Date: _____
David E. Screven, Esquire
Pennsylvania Public Utility Bureau of
Transportation and Safety

Date: _____
Martha R. Smith, Esquire
Department of Conservation and Natural
Resources

Date: _____
Melvin E. Newcomer, Esquire
Solicitor for Providence Township

RECEIVED
2012 APR -4 PM 2:59
PA PUC
SECRETARY'S BUREAU


NOW, THEREFORE, the undersigned parties request that the Stipulation of Settlement be amended as follows:

1. Paragraph 117 of the Commission's 1997 Order shall remain unchanged, providing as follows:

117. That the non-carrier utilities involved, if any, each at its sole cost and expense, except as noted in Ordering Paragraph 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.

Date: _____
Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway
Company

Date: _____
Gina M. D'Alfonso, Esquire
Pennsylvania Department of Transportation

Date: 4-4-2019

David E. Screven, Esquire
Pennsylvania Public Utility Bureau of
Transportation and Safety

Date: _____
Martha R. Smith, Esquire
Department of Conservation and Natural
Resources

Date: _____
Melvin E. Newcomer, Esquire
Solicitor for Providence Township

RECEIVED
2012 APR -4 PH 2:59
PA PUC
SECRETARY'S BUREAU

NOW, THEREFORE, the undersigned parties request that the Stipulation of Settlement be amended as follows:

1. Paragraph 117 of the Commission's 1997 Order shall remain unchanged, providing as follows:

117. That the non-carrier utilities involved, if any, each at its sole cost and expense, except as noted in Ordering Paragraph 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.

Date: _____

Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway
Company

PA P.U.C.
SECRETARY'S BUREAU

2012 APR -4 PM 2:59

RECEIVED

Date: _____

Gina M. D'Alfonso, Esquire
Pennsylvania Department of Transportation

Date: _____

David E. Screven, Esquire
Pennsylvania Public Utility Bureau of
Transportation and Safety

Date: 4-3-12

Martha R. Smith
Martha R. Smith, Esquire
Department of Conservation and Natural
Resources

Date: _____

Melvin E. Newcomer, Esquire
Solicitor for Providence Township

PA P.U.C.
LAW BUREAU

2012 APR -3 PM 2:19

RECEIVED

NOW, THEREFORE, the undersigned parties request that the Stipulation of Settlement be amended as follows:

1. Paragraph 117 of the Commission's 1997 Order shall remain unchanged, providing as follows:


117. That the non-carrier utilities involved, if any, each at its sole cost and expense, except as noted in Ordering Paragraph 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.

Date: _____
Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway
Company

Date: _____
Gina M. D'Alfonso, Esquire
Pennsylvania Department of Transportation

Date: _____
David E. Screven, Esquire
Pennsylvania Public Utility Bureau of
Transportation and Safety

Date: _____
Martha R. Smith, Esquire
Department of Conservation and Natural
Resources

Date: 4/3/12 _____

Melvin E. Newdamer, Esquire
Solicitor for Providence Township

RECEIVED
2012 APR -4 PH 2:59
PA PUC
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Consolidated Rail Corporation for the Abolition of 31 Crossings for the Enola Branch, LC201323, 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
	:	
v.	:	
	:	
Consolidated Rail Corporation, Pennsylvania Department of Transportation, and Lancaster County, et al.	:	

STATEMENT OF PROVIDENCE TOWNSHIP IN SUPPORT OF SETTLEMENT

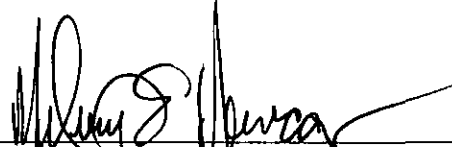
Providence Township supports the settlement which has been reached by the parties. This settlement protects the public safety and public interest and also allows for an historical and aesthetically-attractive bridge to remain in place. The Township supports the use of this corridor as a recreational trail and has taken significant steps in the past several years to promote that use. Allowing the bridge to remain will further enhance the recreational trail in the Township.

The Township also supports the conditions relating to limiting the roadway under the bridge to one lane and erecting signs to advise motorists of the bridge. The Township believes

that the requirements and conditions to which it has agreed will adequately safeguard the public and provide a benefit to the Township and its citizens through the enhancement of the recreational trail.

Respectfully submitted,
PROVIDENCE TOWNSHIP

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)

RECEIVED
2012 APR -4 PM 2:59
PA PUC
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Consolidated Rail Corporation for the Abolition of 31 Crossings for the Enola Branch, LC201323, 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
v.	:	
Consolidated Rail Corporation, Pennsylvania Department of Transportation and Lancaster County, et al.	:	

STATEMENT OF PROVIDENCE TOWNSHIP

Providence Township hereby submits the following statement as evidence in support of its Petition to Modify Portions of the October 9, 1997 Opinion and Order entered by the Pennsylvania Public Utility Commission.

1. As part of the settlement reached in this matter, the Township agrees to the following:

(a) Township shall perform a bi-annual environs-only inspection of the bridge consistent with PennDOT specifications and requirements and provide a copy of that inspection report to PennDOT.

(b) Township shall reduce the number of lanes in the bridge tunnel from two (2) lanes to one (1) lane.

(c) Township shall attach to both sides of the bridge signs identifying side clearance of 20' and height clearance limitations of 14'4", and shall place side clearance identification markers on the bridge structure itself, which signs and markings shall be visible to approaching vehicle operators, and which shall be installed in accordance with PennDOT Publication 236M, Handbook of Approved Signs, PA-DOT W12-2P, Low Clearance Sign.

(d) Township shall post advisory speed-reduction signs on both approaches to the bridge tunnel reducing the speed to 25 miles per hour.

(e) Township shall erect yield signs at both approaches indicating that the bridge tunnel is a single-lane structure.

(f) Township will erect advisory signs indicating the alignment of the road to alert approaching vehicles of the single-lane bridge and road alignment.

(g) All signs shall be erected in conformity with PennDOT standards. In addition, the Township shall comply with applicable regulations in providing identification indicators for the newly-erected signs.

(h) Township will not create any additional public access to the recreational trail at or near Crossing No. 21 and will not create any additional public parking in that area for individuals using the recreational trail.

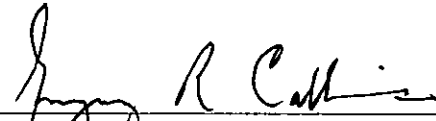
(i) Township will submit an updated traffic study to the Bureau on or before February 28, 2015, to demonstrate that there has been no significant increase in the average daily traffic count of two hundred ninety (290) vehicles identified in the 2010 traffic study previously conducted by the Township.

2. The Township confirms that all emergency vehicles requiring access to properties in or about Hollow Road are able to travel through the bridge tunnel. The Township is not aware of any commercial vehicles that are unable to travel through the bridge tunnel; however, if there are any commercial vehicles of this type, there are adequate alternative routes for those vehicles to use.

3. The Township is willing and agrees to assume ownership and all future maintenance responsibility for the present bridge structure, at its sole cost and expense.

IN WITNESS WHEREOF this Statement has been executed by the
Chairman of the Providence Township Board of Supervisors on
April 2, 2012.

Attest: 
Secretary


Gregory Collins, Chairman
Providence Township Board of
Supervisors

RECEIVED
2012 APR -4 PM 2:59
PA PUC
SECRETARY'S BUREAU