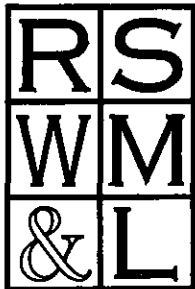


LAW OFFICES



REESE, SAMLEY, WAGENSELLER, MECUM & LONGER
A PROFESSIONAL CORPORATION

TIMOTHY J. REESE
MATTHEW C. SAMLEY
DAVID E. WAGENSELLER, III
SAMUEL M. MECUM
JANICE L. M. LONGER

Lancaster Office
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QUARRYVILLE, PA 17566
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April 17, 2012

Via Certified Mail

James McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street - Filing Room
Harrisburg, PA 17120

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2012 APR 23 AM 11:19
PA P.U.C.
SECRETARY'S BUREAU

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

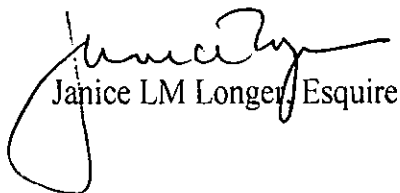
Dear Secretary McNulty:

Our firm represents Eden 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.

Also enclosed is an additional first page of the Petition. Kindly time-stamp the page and return it to my attention in the envelope provided.

Thank you for your consideration. Please contact me if you need further information.

Sincerely,


Janice LM Longer, Esquire

JLML//tlv

cc: Eden Township

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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,

Docket No. A-00111016

Board of Supervisors of Bart Township

Docket No. C-00913256

v.

Consolidated Rail Corporation and the Pennsylvania Department of Transportation and Commissioners of the County of Lancaster, et al.

PA P.U.C.
SECRETARY'S BUREAU

2012 APR 23 AM 11:19

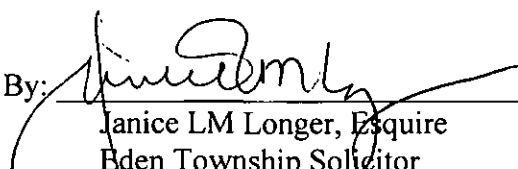
RECEIVED

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.572(e), you are hereby notified that, if you do not file a written response to the attached Petition within ten (10) days from service of this notice, the facts set forth in the Petition may be deemed to be true, thereby requiring no other proof. All pleadings, such as a response to the Petition, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on all parties.

Date: *April 19, 2012*

Respectfully submitted:

By: 
 Janice LM Longer, Esquire
 Eden Township Solicitor
 Reese, Samley, Wagenseller, Mecum & Longer, PC
 120 North Shippen Street
 Lancaster, PA 17602
 ID 33057
 (717)393-0671

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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,

Board of Supervisors of Bart Township

v.

Consolidated Rail Corporation and the Pennsylvania Department of Transportation and Commissioners of the County of Lancaster, et al.

Docket No. A-00111016

Docket No. C-00913256

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

2012 APR 23 AM 11:20

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

Eden Township, a Second Class Township in Lancaster County, Pennsylvania ("Eden Township"), by and through its attorney, Janice L.M. Longer, Esquire, hereby files this Petition, pursuant to 52 Pa. Code Section 5.572, 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. Your Petitioner is Eden Township, a second class township in the county of Lancaster with offices at 489 Stony Hill Road, Quarryville, PA 17566.
2. The name and address of the attorney for Eden Township is:

Janice L.M. Longer, Esquire,
Reese, Samley, Wagenseller, Mecum & Longer, P.C.
120 North Shippen Street
Lancaster, PA 17602

3. The Petitioner is a party to a Stipulation of Settlement dated February 25, 1997 (“1997 Settlement”) entered into by multiple municipalities with 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 municipalities in Lancaster and Chester counties, Pennsylvania, including the crossing which is the subject of this Petition as hereinafter set forth.

4. On October 9, 1997, the Commission entered an Opinion and Order (the “1997 Order”) approving the aforementioned 1997 Settlement.

5. By Deed dated May 19, 1999, and recorded on October 5, 1999, in the Office of Recorder of Deeds for Lancaster county, Pennsylvania, in Deed Book 6403 at page 1 through 179, Conrail’s interest in the 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 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.

6. In accordance with the 1997 Settlement, Eden Township became the grantee of certain real property and associated rights-of-way which were formerly part of the Enola Branch. The conveyance was pursuant to a quitclaim deed executed on July 24, 2008, and recorded on July 28, 2008, in the Office of the Recorder of Deeds for Lancaster County, Pennsylvania as Document ID No. 5723042.

7. This Petition is filed only with respect to the crossing identified in the 1997 Order as Crossing No. 10 (Pumping Station Road)(hereinafter referred to as “Crossing No. 10”). The railroad right-of-way at this crossing was transferred to Eden Township pursuant to the conveyance referenced in paragraph 6, above.

8. Crossing No. 10 is a below-grade crossing where Pumping Station Road crosses under the railroad right-of-way in Eden Township, Lancaster County. The bridge at this crossing is a stone arch culvert that is 31 feet in length and is located beneath the railroad embankment. The bridge is of stone masonry construction, including the headwalls, wingwalls and abutments. The bridge has a maximum vertical clearance of 12 feet 4 inches at the center of the arch and a horizontal clearance of 30 feet.

9. Pumping Station Road is a two-lane paved macadam highway with a width including shoulders of approximately 22 feet as it approaches Crossing No. 10 and a width of 20 feet as it passes through the Crossing.

10. The 1997 Settlement Order requires that the stone bridge at Crossing 10 and substructure and superstructure be removed to a point two feet (2') below the surrounding ground line and that the embankments be graded to a two-to-one slope, and that grading, seeding and mulching be performed to prevent erosion.

11. Petitioner seeks an Amendment to the 1997 Order to allow the stone bridge to remain and to be preserved by Eden Township in order to maintain its historical significance. In addition, if Eden Township is permitted to maintain the stone bridge in place, the continuity of the recreational trail which is being developed along the right-of-way within the Township and neighboring municipalities will be preserved. In 1997, the likelihood of a recreational trail was in question; however, the recreational trail is now under development and parts of the trail are in regular use in Eden Township and neighboring municipalities. The public enjoyment of the recreational trail will be enhanced if Eden Township is allowed to maintain the stone bridge over Crossing 10. Moreover, the Township believes that public safety will be enhanced if the bridge is allowed to remain, as the public will not have to leave the trail and cross the road in order to continue on the trail.

12. The Township's Engineer has confirmed the structural soundness of the stone bridge. In addition, the Township Engineer will undertake a traffic study to determine the average usage of the road, the average speed at which vehicles pass over the road and to determine any site distance issues due to the curvature of the road or specific geographical considerations pertinent to that portion of Pumping Station Road.

13. As part of its proposal to retain the stone bridge at Crossing No. 10, Eden Township agrees to implement a signage plan or other traffic control devices at Petitioner's expense, as may be recommended by the Township Engineer, together with all necessary repairs to the Crossing and its surrounds to insure public safety, as may be recommended by the Township Engineer or ordered by the Commission and to continuously maintain the crossing and its surrounds in the future, in accordance with the Commission's directives.

14. Eden Township believes and therefore avers that the bridge is of historical significance to the township and its citizens. The bridge is part of the Enola Branch Low-Grade Railroad Line, a historic, cultural and engineering landmark determined eligible for the National Register of Historic Places by the Secretary of the Interior on April 16, 1999. Maintenance of the bridge will enhance the surrounding area, whereas removal will detract from the natural beauty of the area. Eden Township believes that the site can be maintained by the Township in a manner which *affords protection to the public without any inconvenience to public utilities or roadways or to private landowners in the area.*

15. Petitioner believes, and therefore avers, that the Enola Branch has been associated with events that have made a significant contribution to the broad patterns of national history and that the particular crossing which is the subject of this Petition, embodies the distinctive characteristics of a type, period or method of construction. Petitioner supports its position by reference to eligibility criteria A and C for the National Register of Historic Places.

characteristics of a type, period or method of construction. Petitioner supports its position by reference to eligibility criteria A and C for the National Register of Historic Places.

16. Since the public has been made aware of the possibility of removal of the stone bridge at Crossing 10, there has been an outcry of public support. Attached hereto as consolidated Exhibit "1" are letters supporting Eden Township's Petition from the Lancaster County Commissioners, Lancaster County Planning Commission, and the Pennsylvania Department of Conservation and Natural Resources.

17. Petitioner has notified PennDot district personnel of this Petition and is prepared to modify the area surrounding the bridge in a manner which will assure public safety and address PennDot's concerns.

18. Norfolk Southern is in agreement with preservation of the stone bridge, provided that the Commission approves the request and that Eden Township agrees to own and to continuously maintain the stone bridge at its cost and expense in accordance with any conditions imposed by the Commission.

19. For all of the reasons set forth above, Eden Township respectfully requests that Paragraphs 69 through 74 of the Commission's 1997 Order entered in the above captioned matter be modified to read as follows (Note: Underlined language to be added and language in bold to be eliminated):

69. That the Crossing where Pumping Station Road crosses under the right-of-way of Consolidated Rail Corporation in Eden Township is hereby abolished, **upon completion of the work herein ordered** with the structure remaining in place.

70. That Eden Township, having agreed to do so at its sole cost and expense, shall furnish all materials and do all work necessary to maintain the

and do all work necessary to remove the bridge substructure and superstructure to a point two 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.

71. That Consolidated Rail Corporation, having agreed to do so, at its sole cost and expense, **in the removal of the structure**, shall make any necessary provisions for protection and stability of the National Railroad Passenger Corporation's electrical system poles.

72. Removed in its entirety.

73. Removed in its entirety.

74. Removed in its entirety and the following inserted in place thereof. That Eden Township, at its sole cost and expense, furnish all materials and do all work necessary to maintain the highway approaches to Crossing No. 10 in a safe and satisfactory condition.

20. In addition to the foregoing modifications, the Petitioner also requests that:

(i) The deadline for removal of the bridge structure at Crossing No. 10 set forth in Ordering Paragraph 70, which is presently in December 2012, be stayed until such time as the Commission has ruled on this Petition; and

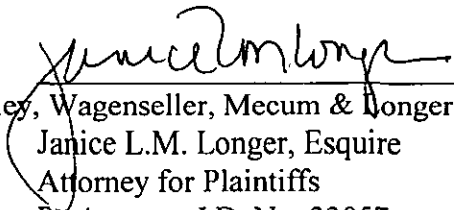
(ii) Should the Commission deny the relief requested in this Petition and require the bridge structure at Crossing No. 10 to be removed, Norfolk Southern be granted an extension of time to comply with the terms of the 1997 Order with respect to removal and that such extension is at least twelve(12) months from the date on which the Commission enters an Order with regard to this Petition; and

(iii) Except as modified by 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, Eden 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 herein above.

April 19, 2012

Respectfully submitted,



Reese, Samley, Wagenseller, Mecum & Longer, PC
Janice L.M. Longer, Esquire
Attorney for Plaintiffs
Pa Attorney I.D. No. 33057
120 North Shippen Street
Lancaster, PA 17602
(717)393-0671

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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,

Board of Supervisors of Bart Township

v.

Consolidated Rail Corporation
and the Pennsylvania Department of
Transportation and Commissioners
of the County of Lancaster, et al.

Docket No. A-00111016

Docket No. C-00913256

PA P.U.C.
SECRETARY'S BUREAU

2012 APR 23 AM 11:20

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VERIFICATION

I verify that the statements made in foregoing Petition of Eden Township to Modify Portions of the October 9, 1997 Order of the Pennsylvania Utility Commission are true and correct. I understand that false statements made herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities.

Date:

4/18/12



Ellis Ferguson, Chairman of the
Eden Township Board of Supervisors

EXHIBIT "1"

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PA P.U.C.
SECRETARY'S BUREAU



Office of the Commissioners

January 25, 2012

150 North Queen Street
Suite #715
Lancaster, PA 17603
Phone: 717-299-8300
Fax: 717-293-7208
www.co.lancaster.pa.us

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

County Commissioners
Scott Martin, Chairman
Dennis P. Stuckey, Vice-Chairman
Craig Lehman

Chief Clerk
Andrea M. McCue

Re: Petition by Eden Township, Lancaster
County, to Modify Portions of the 1997 Opinion
and Order Entered by the PA PUC
(Docket Number: A-00111016)

Dear Mr. Ferguson:

The Lancaster County Board of Commissioners understands that Eden Township will be filing a petition to modify portions of the October 9, 1997 opinion and order entered by the Pennsylvania Public Utility Commission (PA PUC) regarding the Pumping Station Road Bridge (Crossing No. 10) on the Enola Branch rail corridor. The purpose of the petition is to modify the current order for Norfolk Southern to demolish the stone arch rail road bridge over Pumping Station Road, so that it can remain intact.

The Enola Branch rail corridor is an important part of the heritage and character of the southern Lancaster County landscape. The structures, along with the entire rail corridor, are historically significant resources that have been Determined Eligible by the Keeper of the National Register of Historic Places. In addition, the structures along this corridor serve as important physical connections for the existing Atglen-Susquehanna Trail. The trail provides both recreational opportunities and an alternative, non-motorized means of transportation for area residents to travel to and from Quarryville Borough.

Therefore, the Lancaster County Board of Commissioners strongly supports the request by Eden Township Board of Supervisors to modify the PA PUC order to ensure that the bridge remains intact.

Sincerely,

Scott F. Martin, Chairman
Lancaster County Board of Commissioners

JRC/MAD/djh

cc: Ellis Ferguson, Chairman, Eden Township Board of Supervisors
Greg Collins, Chairman, Providence Township Board of Supervisors
Janice Longer, Attorney, Reese, Samley, Wagenseller, Mecum & Longer,





Planning Commission

150 North Queen Street

Suite #320

Lancaster, PA 17603

Phone: 717-299-8333

Fax: 717-295-3659

www.co.lancaster.pa.us/planning

23 January 2012

County Commissioners

Scott Martin, Chairman

Dennis P. Stuckey, Vice-Chairman

Craig Lehman

Executive Director

James R. Cowhey, AICP

Rosemary Chiavetta, Secretary

Pennsylvania Public Utility Commission

Commonwealth Keystone Building

400 North Street

Harrisburg, PA 17120

Re: Petition by Eden Township, Lancaster County, to Modify Portions of the 1997 Opinion and Order Entered by the PA PUC (Docket Number: A-00111016)

Dear Secretary Chiavetta:

The Lancaster County Planning Commission understands that Eden Township will be filing a petition to modify portions of the October 9, 1997 opinion and order entered by the Pennsylvania Public Utility Commission (PA PUC) regarding the Pumping Station Road Bridge (Crossing No. 10) on the Enola Branch rail corridor in Eden Township, Lancaster County, Pennsylvania. The purpose of the petition is to modify the order as it relates to the stone arch rail road bridge over Pumping Station Road.

As part of the 1997 settlement, Conrail (now Norfolk Southern) is to demolish the structure on Pumping Station Road. Eden Township is seeking to modify this order to keep the structure in place, due to both its historic significance and its use as a safe road crossing for Atglen-Susquehanna Trail users. The Eden Township Board of Supervisors has indicated that they are willing to take ownership and maintenance responsibilities for the bridge.

The Enola Branch rail corridor is an important part of the history and character of the southern Lancaster County landscape. The structures, along with the entire rail corridor, are historically significant resources that have been Determined Eligible by the Keeper of the National Register of Historic Places. *Heritage*: the Cultural Heritage Element of the Lancaster County Comprehensive Plan calls for the preservation of the county's historic resources.

In addition, the structures along this corridor serve as important physical connections for the existing rail trail. This trail, known as the Atglen-Susquehanna Trail, is one of the top priority greenways identified in the Lancaster County green infrastructure plan titled *GreenScapes*. It will provide both recreational opportunities and an alternative, non-motorized means of transportation for area residents to travel to and from Quarryville Borough. Should the Pumping Station Road Bridge be removed, trail users will be forced to cross this intersection at-grade, resulting in dangerous conditions for both trail users and automobile drivers.



Page 2

Therefore, the Lancaster County Planning Commission finds the petition filed by Eden Township regarding Pumping Station Road consistent with the Lancaster County Comprehensive Plan and strongly supports the request to modify the PA PUC order to ensure that the bridge remains intact.

Sincerely,

A handwritten signature in black ink, appearing to read "James R. Cowhey". The signature is fluid and cursive, with the first name "James" and last name "Cowhey" clearly legible.

James R. Cowhey, AICP
Executive Director

JRC/MAD/djh

cc: Ellis Ferguson, Chairman, Eden Township Board of Supervisors
Greg Collins, Chairman, Providence Township Board of Supervisors
Janice Longer, Attorney, Reese, Samley, Wagenseller, Mecum & Longer,
Lancaster Delegation



pennsylvania

DEPARTMENT OF CONSERVATION
AND NATURAL RESOURCES

BUREAU OF RECREATION AND CONSERVATION

January 18, 2012

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
3rd Floor North
Commonwealth Keystone Building
Harrisburg, PA 17110

Re: Petition by Eden Township, Lancaster County,
To Modify Portions of the October 9, 1997
Opinion and Order Entered by the PA PUC
(RE: A-00111016)

Dear Secretary Chiavetta:

Eden Township, in Lancaster County, has filed a petition to modify the October 9, 1997 PUC order to remove and demolish Crossing No. 10 (Pumping Station Road) on the Enola Branch rail corridor. The structure at this road crossing is a stone arch culvert located beneath the railroad embankment. The Township is requesting the 1997 order be modified to permit the structure to remain intact to support the development of the Enola Low Grade Rail Trail. The Department of Conservation and Natural Resources (DCNR) supports this request.

The municipalities along the Enola Branch rail corridor have recently acquired the portions of the railroad right-of-way within their respective municipal boundaries. They are now interested in developing the right-of-way into a rail trail. Therefore, it is critical that Crossing No. 10 (Pumping Station Road), and other crossings, remain in place. If the structures are removed, the townships will have the burden of replacing them at a much higher cost than if the structure is preserved in place and rehabilitated to meet pedestrian use and safety requirements.

The Enola Branch rail corridor is an important part of the history and character of the southern Lancaster County landscape. The Lancaster County Comprehensive Plan, under the Cultural Heritage section, calls for the preservation of the county's historic resources. The structures, along with the entire rail corridor, are historically significant resources that have been "Determined Eligible" by the Keeper of the National Register of Historic Places.

conserve sustain enjoy

400 Market Street, 6th Flr, RCSOB, Harrisburg, PA 17101 | Phone 717-783-2658 | Fax 717-787-9577

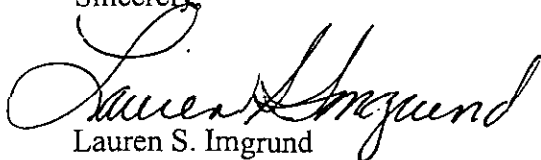
January 18, 2012

DCNR is a major advocate, funder and developer of rail trails and strongly supports saving the railroad structures along the Enola Branch Rail Corridor including the one at Pumping Station Road. Rail trails are a major source of economic development, connecting people to the outdoors and supporting a more active lifestyle for Pennsylvanians. This makes our communities healthy places to live and work.

The Enola Branch trail is a priority trail for DCNR under the Decision Tree Process as set forth in the "Rail-Trail Bridges in Pennsylvania, A Guidebook for the Structure Disposition Process", developed in conjunction with the Department of Transportation pursuant to Governor Tom Ridge's Rail Trail Policy. DCNR is a party to this PUC action, and can provide testimony in support of this rail trail when a hearing is scheduled.

Thank you in advance for your thoughtful consideration of this matter. The Department looks forward to favorable resolution of this issue. Should you have additional questions or need more information, please let me know.

Sincerely,



Lauren S. Imgrund
Bureau Director

cc: Greg Collins, Chairman, Providence Township Board of Supervisors
Michael A. Domin, AICP, Principal Planner, Lancaster County Planning Commission
Ellis Ferguson, Chairman, Eden Township Board of Supervisors
Janice Longer, Esq., Reese, Samley, Wagenseller, Mecum & Longer ✓

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 1710593265

Borough of Quarryville
330 Saint Catherine Street
Quarryville, PA 17566

Benjamin C. Dunlap, Jr., Esquire
Nauman, Smith, Shissler & Hall, LLP
200 North Third Street, 18th Floor
P.O. Box 840
Harrisburg, PA 17108-0840

Date: *April 19, 2012*

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

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

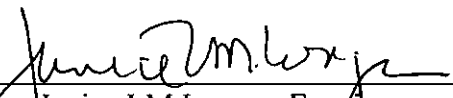
Sadsbury Township
1077 White Oak Road
Christiana, PA 17509

Providence Township
c/o Kluxen & Newcomer
339 North Duke Street
PO Box 539
Lancaster, PA 17602-0539

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

Gina M. D'Alfonso, Esquire
Commonwealth of Pennsylvania
Department of Transportation
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212

Respectfully submitted:

By: 
Janice LM Longer, Esquire
Eden Township Solicitor
Reese, Samley, Wagenseller, Mecum & Longer, PC
120 North Shippen Street
Lancaster, PA 17602
ID 33057
(717)393-0671



Hasler

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ZIP 17602
011D10603946

REESE, SAMLEY, WAGENSELLER, MECUM & LONGER

A PROFESSIONAL CORPORATION

Attorneys-at-Law

120 NORTH SHIPPEN STREET

LANCASTER, PENNSYLVANIA 17602

**To: James McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street - Filing Room
Harrisburg, Pennsylvania 17120**