

Paul R. Ober & Associates
Attorneys at Law

Thomas C. Anewalt, Esquire

234 N. 6th Street, Reading, PA 19601 (610) 378-0121; Fax: (610) 378-9712
1244 W. Hamilton Street, Allentown, PA 18102 (610) 437-4455; Fax: (610) 437-5670

To: Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Date: April 24, 2012

Re: Complaint Docket No. C-2012-2291457

AS WE DISCUSSED

AS YOU REQUESTED

FOR YOUR INFORMATION

FOR YOUR RECORDS

FOR SERVICE UPON YOU

FOR FILING

REVIEW AND RESPOND

SIGN AND RETURN

XXX


SECRETARY'S BUREAU

2012 APR 25 AM 10:22

2012

ENCLOSURES: Railroad's Pre-Hearing Memorandum.

MESSAGE: Please file in your usual manner. Thank you for your consideration and cooperation.

By: 
THOMAS C. ANEWALT, Esquire

Enclosures
cc:

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SECRETARY'S BUREAU

2012 APR 25 AM 10:22

BOROUGH OF NESQUEHONING :
: Docket No. C-2012-2291457
v. :
: :
: :
C&S RAILROAD, PENNDOT :
AND CARBON COUNTY :
COMMISSIONERS :

PRE-HEARING MEMORANDUM

I. ISSUES PRESENTED:

1. Whether or not the Pennsylvania Utility Commission has authority to require that C&S Railroad's crossings be passable for the handicapped.
2. Whether or not Plaintiff, Borough of Nesquehoning has stated a cause of action upon which relief can be granted.
3. The responsibility of C&S Railroad, the Pennsylvania Department of Transportation, the Borough of Nesquehoning and/or Carbon County to make repairs to crossings in the Borough of Nesquehoning, provided they are necessary.

II. WITNESSES

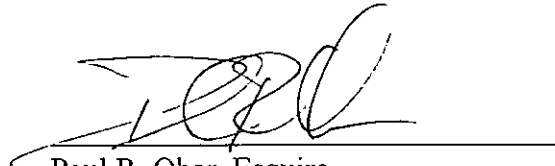
1. The officers and/or employees of C&S Railroad.
2. Any witness called by Nesquehoning Borough, the Pennsylvania Department of Transportation, Carbon County or the Commission.

III. SUBJECT OF THE WITNESS TESTIMONY

The witnesses will testify as to the condition of the subject railroad crossings and the necessity for their repair, if necessary. It is the position of C&S Railroad that repairs to, or the rebuilding of, crossings at the present time are not warranted and that their condition has not sufficiently deteriorated to justify the relief sought by the Borough of Nesquehoning. C&S Railroad maintains that the condition of the crossings poses no safety hazard. Further, C&S Railroad maintains that neither the PUC nor the Borough of Nesquehoning possesses the legal authority to require such repairs; to make the crossings passable for the handicapped.

Respectfully submitted:

PAUL R. OBER & ASSOCIATES

A handwritten signature in black ink, appearing to read 'P. Ober', is written over a horizontal line.

Paul R. Ober, Esquire
Attorney for Reading, Blue Mountain
& Northern Railroad Company

2012 APR 25 10:22

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SECRETARY'S BUREAU

BOROUGH OF NESQUEHONING :
: Docket No. C-2012-2291457
v. :
: :
C&S RAILROAD, PENNDOT :
AND CARBON COUNTY :
COMMISSIONERS :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the Pre-Hearing Memorandum upon the following individuals, by first class mail, postage prepaid.

Daniel Miscavige, Esquire
Carbon County Commissioners
Courthouse Annex, 3rd Floor
2 Hazard Square, P.O. Box 129
Jim Thorpe, PA 18229

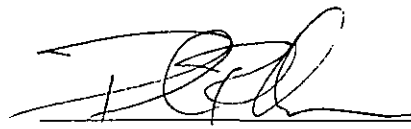
Sean Cancannon, Esquire
PennDOT
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212

Robert T. Yurchak, Esquire
Borough of Nesquehoning
P.O. Box 127
1 East Catawissa Street
Nesquehoning, PA 18240

Louise Fink-Smith, Esquire
PA Public Utility Commission
Transportation and Safety
P.O. Box 3265
Harrisburg, PA 17105-3265

Michael Ozalas, Esquire
P.O. Box 129
Jim Thorpe, PA 18229

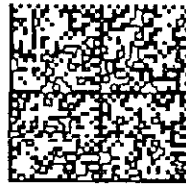
Dated: 4/24/12


Paul R. Ober, Esquire
234 North 6th Street
Reading, PA 19601

PAUL R. OBER & ASSOCIATES

234 NORTH 6TH STREET
READING, PENNSYLVANIA 19601

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