



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

July 20, 2012

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

RE: **Docket No. C-2011-2248320**

Dear Secretary Chiavetta:

Enclosed for filing please find the original and one (1) copy of the Department's *Motion to Schedule Matter for Hearing*, in the above-captioned matter.

I hereby certify that a copy has been sent to all parties of record as indicated by the Certificate of Service.

Sincerely,

A handwritten signature in blue ink that reads "Gina M. D'Alfonso".

Gina M. D'Alfonso
Assistant Counsel in Charge

Enclosure

220/GMD:aa

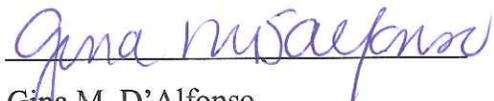
cc: Parties of Record
Rodney Bender P.E., PUC
Mark J. Chappell, P.E., Acting Chief, Utilities and Right-of-Way Section
Mike Smith, Highway Design Supervisor, District 9-0

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Borough of Windber	:	Complaint Docket
Complainant	:	No: C-2011-2248320
	:	
v.	:	
	:	Electronically Filed
B & E Railroad d/b/a Allegheny Southern	:	
Railroad, Somerset County,	:	
Commonwealth of Pennsylvania	:	
Department of Transportation	:	
Respondents	:	

NOTICE TO PLEAD

This pleading has been filed with the Secretary of the Public Utility Commission. Any responsive pleading this Motion must be filed within twenty (20) days of service of this Motion upon you. 52 Pa. Code § 5.103 (b) & (c).



Gina M. D'Alfonso
Assistant Counsel-in-Charge
PennDOT - Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212
Telephone No. (717) 787-3128

Dated: July 20, 2012

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Complainant	:	No: C-2011-2248320
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Railroad, Somerset County,	:	
Commonwealth of Pennsylvania	:	
Department of Transportation	:	
Respondents	:	

MOTION TO SCHEDULE MATTER FOR HEARING

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation (PennDOT), by and through its counsel, Gina M. D'Alfonso, Assistant Counsel in Charge, in its Motion to Schedule Matter for hearing respectfully represents:

1. The name and address of your 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 Borough of Windber filed a Complaint in this matter on or about June 24, 2011, advocating the removal of three (3) at-grade crossings and alleging that the crossings have not been used for at least ten (10) years and are in poor condition.

4. A field conference was held on August 4, 2011. The complaint was not resolved.

5. PennDOT has a roadway reconstruction project scheduled for summer 2013. The crossing located at DOT No. 529 066 R is located within the project limits. The resolution of this Complaint will impact the scope of PennDOT's project.

WHEREFORE, the Department of Transportation respectfully requests that this matter be scheduled for a hearing as soon as possible.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



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
Fax Number (717) 772-2741
Pennsylvania Attorney I.D. Number 46767
gdalfonso@state.pa.us

Dated: July 20, 2012

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Borough of Windber	:	Complaint Docket
Complainant	:	No: C-2011-2248320
	:	
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Railroad, Somerset County,	:	
Commonwealth of Pennsylvania	:	
Department of Transportation	:	
Respondents	:	

VERIFICATION

I, Michael E. Smith, District Grade Crossing Manager, Commonwealth of Pennsylvania, Department of Transportation, in the foregoing document, make the following statement subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsifications to authority, and do state that as Grade Crossing Manager for the Commonwealth of Pennsylvania, Department of Transportation, I am authorized to make this statement on behalf of the Commonwealth of Pennsylvania, Department of Transportation, and that the facts set forth in the foregoing document are true and correct to the best of my information, knowledge and belief.


Michael E. Smith
District Grade Crossing Manager

DATED: July 20, 2012

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Railroad, Somerset County,	:	
Commonwealth of Pennsylvania	:	
Department of Transportation	:	
Respondents	:	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the *Motion* was served upon the parties below by first-class mail; postage prepaid this 20th day of July, 2012:

B & E Railroad
d/b/a Allegheny Southern RR
4200 Rt 22 East, Suite 7
Blairsville, PA 15717

Darnel P. Rosario, Esquire
Somerset County Solicitor
300 N. Center Ave., Suite 220
Somerset, PA 15501

Jeffrey L. Berkey, Esquire
Windber Borough Solicitor
124 N. Center Ave
P.O. Box 431
Somerset, PA 15501-0431

Anthony P. Turcato, Council President
1409 Somerset Avenue
Windber, PA 15963

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Alicia Adair
Legal Assistant to Gina M. D'Alfonso
Assistant Counsel in Charge
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Telephone No. (717) 787-3128

Dated: July 20, 2012