

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Carl Hill

Electronically Filed.

v.

Reading Blue Mountain & Northern Railroad
Hazel Township
Luzerne County
Commonwealth of Pennsylvania Department of Transportation

No. C-2012-2303046

EXCEPTIONS OF READING BLUE MOUNTAIN & NORTHERN RAILROAD TO
COMMISSION'S ORDER OF AUGUST 30, 2012

NOW COMES, Reading Blue Mountain & Northern Railroad (RBM) by and through its counsel, Paul R. Ober & Associates, and states the following exceptions:

1. On July 27, 2012, representatives of the Pennsylvania Utility Commission (PUC), the Pennsylvania Department of Transportation (PennDOT), Reading Blue Mountain & Northern Railroad (RBM) and the Complainant attended a meeting concerning the condition of the Stockton Mountain Road (State Route 3019) crossing in Luzerne County.
2. At that time, RBM expressed its interest in the general condition and safety of the crossing but indicated that, notwithstanding the crossing's physical appearance, RBM could not be certain of the structural integrity of the crossing from a cursory review.
3. At that time, it was suggested, *but not agreed to by RBM*, that the timber of the crossing be removed and that asphalt be laid in its place.
4. Subsequently, RBM agreed to replace the entire crossing **provided** PennDOT and/or the host municipality provide for the costs of road closure and detour.

5. Neither PennDOT nor the municipality, Hazel Township, would agree to provide the detour which was the *sine qua non* for RBM's offer to rebuild the entire crossing.
6. A second meeting was held on August 10, 2012, between representatives of the PUC, PennDOT, RBM and the Complainant.
7. After review by RBM's Maintenance of Way Department, RBM determined that paving would not sufficiently repair the crossing and that only a temporary repair could benefit the current condition of the crossing on an emergency basis in order to assure that timbers remain in place and assure stability of the rail. This work was done by RBM without the necessity of a full road closure and detour.
8. At that time, the other parties stated their dissatisfaction with the temporary emergency repairs done by RBM and the instant Order was issued.
9. The factual bases for which the Complaint was sustained are unsupported by the evidence.
10. The provisions contained in the Commission's Order at Paragraphs 3, 5, 6, 7 and 9 are contrary to the facts and discussions of the meeting of July 27, 2012 and August 10, 2012. RBM excepts to said Paragraphs of the Commission's Order.
11. RBM is without legal authority to close a road or detour traffic as required by Paragraphs 3 and 4 of the aforesaid Order.
12. The duty to provide detours on State Roadways is statutorily vested exclusively in PennDOT.

13. RBM takes further exception to the entirety of the Commission's Order of August 30, 2012 as contrary to the weight of the evidence and the laws of the Commonwealth of Pennsylvania.
14. RBM requests the Commission rescind and amend its Order of August 30, 2012 in conformance with these Exceptions.

Respectfully Submitted:

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

Paul R. Ober, Esquire
Attorney I.D. No. 17998
234 N. 6th Street
Reading, PA 19601
610-378-0121
(Attorney for RBM)