



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

October 1, 2012

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

RE: **Docket No. C-2012-2303046**

Dear Secretary Chiavetta:

Enclosed for filing please find the original and one (1) copy of the Department's *Motion to Strike Exceptions of Reading Blue Mountain & Northern Railroad*, 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.

Very truly yours,

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

Gina M. D'Alfonso  
Assistant Counsel in Charge

Enclosure

220/GMD:aca

cc: Parties of Record  
Mark J. Chappell, P.E., Chief, Utilities and Right-of-Way Section  
Joseph Strok, District Grade Crossing Administrator, District 4-0

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Carl Hill,**

Complainant

Complaint Docket  
No: C-2012-2303046

v.

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

**Electronically Filed**

**MOTION TO STRIKE EXCEPTIONS OF READING BLUE MOUNTAIN &  
NORTHERN RAILROAD**

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 Strike Answer to Exceptions, respectfully represents:

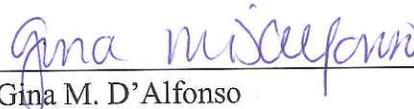
1. Reading Blue Mountain & Northern has captioned its document as Exceptions to the Commission's Order. PennDOT is treating this pleading as a Petition for Reconsideration in accordance with 52 Pa. Code §5.572. Exceptions are properly filed as to "initial, tentative or recommended decisions" pursuant to 52 Pa. Code §5.533.
2. PennDOT never received service of the Exceptions and it is only by happenstance that PennDOT was made aware of this filing on September 26, 2012.
3. No certificate of service was attached to the Exceptions which were filed with the Commission. 52 Pa. Code §1.54.

4. PennDOT believes and therefore avers that no party to this matter received service of the "Exceptions".
5. By Order entered September 27, 2012, the Public Utility Commission entered an order, treating the Exceptions as a Petition for Reconsideration, and granting the petition, pending further review of, and consideration on, the merits.
6. Based upon the procedural flaws, the Petition for Reconsideration should be stricken without consideration of the merits, if any.
7. In the interest of judicial economy and in furtherance of the repair of the crossing, PennDOT will simultaneously file an Answer to the Exceptions (Petition for Reconsideration) in the event that this Motion to Strike is not granted.

WHEREFORE, the Department of Transportation respectfully requests the Petition for Reconsideration a/k/a Exceptions be stricken for failure to comply with the Rules of Administrative Practice and Procedure.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION



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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  
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Pennsylvania Attorney I.D. Number 46767  
[gdalfonso@pa.gov](mailto:gdalfonso@pa.gov)

DATED: October 1, 2012

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Carl Hill,**

Complainant

v.

Complaint Docket

No: C-2012-2303046

**Reading Blue**

**Mountain & Northern Railroad,**

**Hazel Township,**

**Luzerne County,**

**Commonwealth of Pennsylvania,**

**Department of Transportation**

Respondent

**Electronically Filed**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the *Motion to Strike* was served upon the parties below by first-class mail; postage prepaid this 1<sup>st</sup> day of October, 2012:

Paul R. Ober, Esquire  
234 N. 6<sup>th</sup> Street  
Reading, PA 19601

Vito Deluca, County Solicitor  
Luzerne County  
200 North River Street  
Wilkes Barre, PA 18702

Charles Pedri, Township Solicitor  
Hazle Township  
199 North Church Street  
3 Columbus Place  
Hazleton, PA 18201

Carl H. Hill  
826 Lattimer Rd.- Box 66  
Lattimer Mines, PA 18234

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION



Alicia Adair  
Legal Assistant to Gina M. D'Alfonso  
Assistant Counsel in Charge  
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DATED: October 1, 2012