

**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

**PETITION FOR RECONSIDERATION OF THE COMMISSION'S ORDER OF
OCTOBER 24, 2012**

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

1. On October 24, 2012, the Pennsylvania Public Utility Commission (the "Commission") entered an Order (the "Order") in the above-referenced matter, attached hereto as Exhibit "A."
2. In said Order, the Commission disposed of certain Exceptions submitted by RBM concerning the Stockton Road Crossing.
3. However, it reaching its conclusions for which the Commission cited reasons of public safety, the Commission ordered RBM to perform certain repairs immediately to the Stockton Road Crossing, referring the matter to the Office of the Administrative Law Judge for the allocation of costs.
4. Nonetheless, the Commission reached its findings without basic due process, inasmuch as:
 - a. No hearings were ever held in the matter;
 - b. There was no testimony or evidence provided to the Commission;
 - c. There is no record of the proceedings which were based upon two "meetings" on site, at which time neither RBM, nor any other party, had the opportunity to present testimony;
 - d. Such testimony was never tested by cross examination;
 - e. Neither RBM, nor any other party, had any opportunity to present any evidence;

- f. No record was made of any of the proceedings in this case; and
 - g. There was no opportunity to be heard, other than the two on-site meetings.
 - h. There were no Agreements reached at any time with regard to this matter.
5. As noted by the Commission, the Parties did not agree on certain critical points (page 8 of the Commission's Order); in fact, the Parties agreed to nothing.
 6. The only "proceedings" in this matter consisted of a July 27, 2012 meeting and a second meeting held on August 10, 2012.
 7. After view by RBM's Maintenance of Way Department, RBM determined that repaving would not sufficiently repair the crossing and that only a temporary repair would benefit the current condition of the crossing on an emergency basis in order to assure that the timbers remained in place and assuring the stability of the rail. This, which has been done, meets the Commission's concerns of assuring the public safety.
 8. The factual basis upon which the Commission's October 24, 2012 Order was entered are unsupported by the evidence.
 9. RBM believes that the conclusions reached in the Order of October 24, 2012 involves a discrete area of the law which requires further review by the Commission and which presents unique and compelling circumstances.
 10. Simultaneously with this Petition, RBM has filed a Motion for Certification of an Interlocutory Order and Stay of Proceedings Pending Appeal to the Commonwealth Court.

WHEREFORE, RBM respectfully requests the Commission reconsider its Order of October 24, 2012 and reopen this case or, in the alternative, certify the Interlocutory nature of the Order and stay its proceedings pending Appeal.

Respectfully submitted,
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