



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

November 13, 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 Department's *Prehearing Conference Memorandum*, 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:aca

cc: David A. Salapa, Administrative Law Judge
Parties of Record
Rodney Bender P.E., PUC
Mark J. Chappell, P.E., Acting Chief, Utilities and Right-of-Way Section
John Ciprich, P.E., ADE Design Services, District 9-0
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	:	

PREHEARING CONFERENCE MEMORANDUM

In accordance with the Prehearing Conference Order dated October 24, 2012, in the above referenced matter, the Department of Transportation, (Department) offers the following in response to the specific requests contained in the Order:

- a.) It is requested that Department's entry on the service list shall be as follows:

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
Telephone number: 717-787-3128
Facsimile number: 717-772-2741
gdalfonso@pa.gov

- b.) The Department believes that it is possible for this matter to be settled if all parties are willing to engage in settlement discussion. There may be merit to this matter being scheduled for mediation during the litigation preparation.
- c.) At this time, the Department does not anticipate engaging in discovery.
- d.) At this time, the Department does not anticipate engaging in discovery.
- e.) The Department proposes the following litigation schedule:

Direct testimony submitted	January 8, 2013
Rebuttal testimony submitted	January 22, 2013

Hearing
Briefs due

January 29, 30, or 31, 2013
20 days after receipt of transcript

- f.) The Department anticipates calling two (2) witnesses but reserves the right to call additional witnesses if necessary.

John C. Ciprich, P.E., Design Services Engineer
Michael E. Smith, District Grade Crossing Manager

PA Department of Transportation
Engineering District 9-0
1620 North Juniata Street
Hollidaysburg, PA 16648

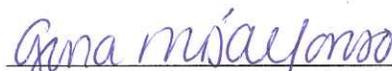
Mr. Ciprich will testify regarding the Department's proposed highway improvement project and the need to resolve the issue of these at grade crossings prior to the expenditure of funds on this project.

Mr. Smith will testify regarding the current condition of the crossings and location details.

- g.) The issues are simple – 1. Should the rails and ties should be removed at the three crossings, the roadway rebuilt and the crossings suspended until such time as there is rail traffic on this line? 2. Who should perform the work? 3. Who should bear the cost?
- h.) In addition to the prepared testimony, the Department will offer photographic evidence and a location map. The Department reserves the right to add additional evidence if necessary.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



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

DATED: November 13, 2012

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Borough of Windber
Complainant

v.

B & E Railroad d/b/a Allegheny Southern
Railroad, Somerset County,
Commonwealth of Pennsylvania
Department of Transportation
Respondents

Complaint Docket
No: C-2011-2248320

Electronically Filed

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the *Prehearing Conference Memorandum* was served upon the parties below by first-class mail; postage prepaid this 13th day of November, 2012:

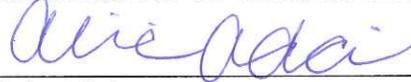
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124 N. Center Ave
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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



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DATED: November 13, 2012