



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

November 16, 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 Department's *Answer to Motion for Certification of Interlocutory Order and Stay of Proceeding Filed by 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., Acting Chief, Utilities and Right-of-Way Section  
Joseph Strok, Grade Crossing Engineer, District 4-0  
Jonathan Nase, Esquire, OSA, PUC

**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

**ANSWER TO MOTION FOR CERTIFICATION OF INTERLOCUTORY ORDER AND  
STAY OF PROCEEDING FILED BY 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 Answer respectfully represents:


1. The Public Utility Commission ("Commission") has exclusive jurisdiction over the subject matter and parties to this Complaint. 66 Pa. C.S §§701, 2701-2709.
2. The order of the Commission entered October 24, 2012, is based upon its finding that the crossing constitutes an immediate danger to safety and welfare of the public. It is surmised that this conclusion was drawn from the undisputed facts alleged in the complaint. The Public Utility Code, 66 Pa. C.S. 2702(f), authorizes the Commission to order the crossing to be "immediately altered, improved, or suspended" and a hearing to be held later for allocation of costs.

3. Given that the October 24, 2012, Order is based upon a finding that the crossing constitutes an immediate danger to the safety and welfare of the public the Department opposes the relief sought in this motion.
4. Clearly the Commission has the authority to order work performed immediately with a hearing for allocation of costs to follow. 66 Pa. C.S. 2702(f)
5. Any issues of fact or law can be resolved at the hearing to be scheduled in this matter.

WHEREFORE, the Department of Transportation respectfully requests the relief sought in this motion be denied.

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

DATED: November 16, 2012

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Carl Hill,  
Complainant

v.

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

Complaint Docket  
No: C-2012-2303046

Electronically Filed

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the *Answer to Petition* was served upon the parties below by first-class mail; postage prepaid this 16<sup>th</sup> day of November 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  
Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel  
P.O. Box 8212  
Harrisburg, PA 17105-8212  
Telephone No. (717) 787-3128

DATED: November 16, 2012