



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 Petition for Reconsideration 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 PETITION FOR RECONSIDERATION 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 order of the Public Utility Commission ("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.
2. 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 Petition for Reconsideration.

3. Clearly the Commission has the authority to order work performed immediately with a hearing for allocation of costs to follow.
4. *Duick v. Pennsylvania Gas and Water Company*, 56 Pa. P.U.C. 553, 1982 Pa. P.U.C. LEXIS4 (1982) held that a petition for reconsideration under Subsection 703(g) may properly raise any matter designed to convince the Commission that it should exercise its discretion to amend or rescind a prior order, in whole, or in part. *Duick* at 559. It would be imprudent and injudicious for the Commission to recant its finding that the condition of the crossing constitutes an immediate danger to the safety and welfare of the public and that the crossing needs to be repaired pursuant to 66 Pa. C.S. 2702(f).

WHEREFORE, the Department of Transportation respectfully requests the Petition for Reconsideration be denied.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

  
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Gina M. D'Alfonso  
Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
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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,  
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**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:

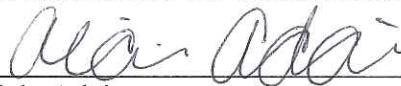
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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION



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DATED: November 16, 2012