



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

December 10, 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 *Prehearing Conference Memorandum*, in the above-captioned matter.

I hereby certify that a copy has been sent to all parties of record on Friday, December 7, 2012, as indicated by the Certificate of Service.

Very truly yours,

A handwritten signature in cursive script 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

**PREHEARING CONFERENCE MEMORANDUM**

In accordance with the Prehearing Conference Order dated November 19, 2012, in the above referenced matter, the Department of Transportation, (Department) offers the following in response to the specific requests contained in the Order:

1. The order entered August 30, 2012, directed the crossing to be repaired at the initial cost and expense of the Reading Blue Mountain & Northern Railroad ("Railroad"). The Railroad was further directed to address the maintenance and protection of traffic at its initial cost and expense as well. All work was to be completed with thirty days of the date of the order. The railroad filed exceptions and sought reconsideration of the order. The Commission granted reconsideration by order entered September 27, 2012, and subsequently entered an order on October 24, 2012, finding that the pursuant to 66 Pa.C.S §2702(f) the subject crossing presents an immediate danger to the safety and welfare of the traveling public. The order further held that the crossing be repaired at the

initial cost and expense of the Reading Blue Mountain & Northern Railroad ("Railroad"). The Railroad was further directed to address the maintenance and protection of traffic at its initial cost and expense. Said work was to be completed within twenty days of the date of the order. The matter was referred to the Office of the Administrative Law Judge for further proceedings on the allocation of costs and to resolve any outstanding issues.

The Railroad then filed another petition for reconsideration and a motion for certification of interlocutory order and stay of proceeding pending appeal. Regardless of the earlier finding of a condition presenting an immediate danger to the safety and welfare of the travelling public, the petition for reconsideration was granted pending further review of and consideration of the merits.

To date, the work ordered by the Commission has not been performed at the crossing.

Though the Commission has ordered that the crossing be repaired, the Department is of the opinion that the crossing is beyond repair and should be replaced.

Given the moderate temperature, the crossing can be replaced immediately. The bituminous materials necessary for the crossing are still available as the plants are open on a limited basis. If the work is not performed immediately, it will have to wait for the spring to allow for the availability of paving materials.

The Department defers to the Railroad regarding the time necessary to perform the work.

In addition to the issues identified in the Prehearing Conference Order, the Commission must address the Railroad's objections to performing the maintenance and protection of vehicular traffic.

2. At this time, the Department intends to have one (1) witness:

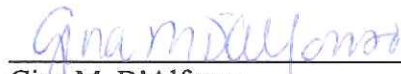
Joseph Strok  
PennDOT Engineering District 4-0  
55 Keystone Industrial Park  
Dunmore, PA 18512

The Department reserves the right to present additional witnesses if determined necessary as this case develops.

3. Mr. Strok will testify regarding the condition of the crossing, the scope of work that in the opinion of the Department needs to be performed, future maintenance and who should bear the cost of the work to be performed and the future maintenance.
4. If a hearing is to be held on this matter, the Department requests that written testimony be provided twenty days prior to the scheduled hearing date.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION



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Gina M. D'Alfonso  
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Commonwealth of Pennsylvania  
Department of Transportation  
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DATED: December 7, 2012

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Carl Hill,  
Complainant  
v.

Reading Blue Mountain  
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Hazel Township, Luzerne County,  
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Department of Transportation  
Respondent

Complaint Docket  
No: C-2012-2303046

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**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 7<sup>th</sup> day of December 2012:

Paul R. Ober, Esquire  
234 N. 6<sup>th</sup> Street  
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Wilkes Barre, PA 18702

Adam Young, Esquire  
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Charles Pedri, Esquire  
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Carl H. Hill  
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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION



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DATED: December 7, 2012