

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

PRE-HEARING CONFERENCE MEMORANDUM

NOW COMES Reading Blue Mountain & Northern Railroad pursuant to the Commission's November 19, 2012 Order and offers the following Pre-Hearing Conference Memorandum:

1. FACTS.

This matter comes before the Commission pursuant to the Complaint of Carl Hill, the Complainant concerning the crossing located at Stockton Road and PA State Road #3019. This matter has an involved history.

On July 27, 2012 representatives of the Commission and PennDOT met with Reading Blue Mountain & Northern Railroad (RBM) and the Complainant. At that time RBM acknowledged its interest in the condition and safety of the crossing. Notwithstanding the crossing's appearance, RBM could not be certain of the structural integrity of the crossing from a cursory review.

At that time, *it was suggested but not agreed to by RBM*, that the lumber of the crossing be removed and asphalt be laid in its place. Subsequently, RBM agreed to replace the entire

PAUL R. OBER & ASSOCIATES crossing **provided** PennDOT and/or the host municipality provided the cost of the road closure

and detour. Neither PennDOT nor Hazle Township would agree to provide the detour which was the *sine qua non* for RBM's offer to completely rebuild the entire crossing.

A second meeting was held August 10, 2012 between the parties. After review by RBM's Maintenance of Way Department, RBM determined that paving would not sufficiently repair the crossing and that only a temporary repair could benefit the current condition of the crossing on an emergency basis in order to assure that the timbers remained in place, insuring the stability of the rail. **This work was done by RBM** without the necessity of a full road closure and detour.

Thereafter, the Parties stated their dissatisfaction with the repairs done by RBM and the Commission entered an Order August 30, 2012 placing the initial cost and expense of repair upon RBM. The Commission granted reconsideration by Order dated September 27, 2012 and subsequently entered October 24, 2012 providing that the initial cost of repair and expense be placed upon RBM.

The matter was referred to the Office of the Administrative Law Judge for further proceedings on the final allocation of costs and resolution of any outstanding issues. Another Petition for reconsideration was subsequently filed by RBM which was granted pending further review and consideration of the merits, which brings this matter to the Commission for resolution.

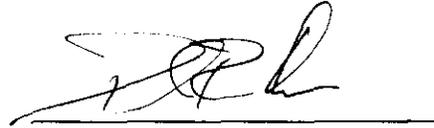
2. WITNESSES.

John Walaitis or such other railroad employees as may become necessary to assist the Commission including without limitation, Frances Karycki.

3. **TESTIMONY.**

Railroad witnesses will testify concerning the condition of the crossing and the necessity for its replacement, as well as the define issue.

Respectfully Submitted:

A handwritten signature in black ink, appearing to be 'P. Ober', written over a horizontal line.

Paul R. Ober, Esquire

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CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2012, I have served a true and correct copy of the foregoing Pre-Hearing Conference Memorandum upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

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Paul R. Ober, Esquire