



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

December 10, 2012

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Carl Hill v. Reading Blue Mountain & Northern Railroad,
Hazel Township, Luzerne County, Commonwealth of Pennsylvania,
Department of Transportation
Docket No. : C-2012-2303046**

Dear Ms. Chiavetta:

Enclosed for filing is the original copy of the Pre-Hearing Conference Memorandum on behalf of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission in the above-referenced case. Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,

Adam D. Young
Prosecuting Attorney
Attorney ID No. 91822
Counsel for the Bureau of
Investigation and Enforcement

Enclosures

cc: As per Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Carl Hill,	:	
Complainant	:	
v.	:	
Reading Blue Mountain	:	No: C-2012-2303046
& Northern Railroad,	:	
Hazel Township, Luzerne County,	:	
Commonwealth of Pennsylvania,	:	
Department of Transportation	:	
Respondent	:	

**PRE-HEARING CONFERENCE MEMORANDUM OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

NOW COMES the Pennsylvania Public Utility Commission Bureau of Investigation and Enforcement (I&E) and files this Pre-hearing Conference Memorandum in accordance with the Court's Pre-hearing Conference Order issued November 19, 2012.

Background:

The Commission entered an Order on August 30, 2012, directing that within thirty days of the date of the Order, the crossing to be repaired at the initial cost and expense of the Reading Blue Mountain & Northern Railroad ("RBMNR"). The Railroad was further directed to address the maintenance and protection of traffic at its initial cost and expense as well. The railroad filed exceptions and sought reconsideration of that Order. The

Commission granted reconsideration by Order entered September 27, 2012, and subsequently entered an order on October 24, 2012, finding that the crossing presents an immediate danger to the safety and welfare of the traveling public, and ordered that the crossing be repaired at the initial cost and expense of the Reading Blue Mountain & Northern Railroad (“Railroad”). 66 Pa.C.S §2702(f). The Railroad was further directed to address the maintenance and protection of traffic at its initial cost and expense as well within twenty days of the date of the order. The matter was then referred to the Office of the Administrative Law Judge for further proceedings on the final allocation of costs and to resolve any outstanding issues.

RBMNR then filed *another* Petition for Reconsideration and a Motion for Certification of Interlocutory Order and Stay of Proceeding Pending Appeal. The petition for reconsideration was granted pending further review of and consideration of the merits.

Though the Commission has ordered that the crossing be repaired, to date, the work order by the Commission has not been performed at the crossing.

Issues to be Addressed:

In addition to the issues identified in the Prehearing Conference Order, the Commission must address RBMNR’s objections to performing the maintenance and protection of vehicular traffic. Also the Commission must determine the following:

- (A) The condition of the crossing, the scope of work that in the opinion of the Rail Division needs to be performed, future maintenance and who should bear the cost of the work to be performed and the future maintenance.

Names and addresses of witnesses to be presented:

- (A) Holly Swartz, P.E.
Rail Division
Bureau of Technical Utility Services
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105

Proposed area of testimony for each witness:

This witness will testify as to the Rail Division's opinion regarding the condition of the crossing, the scope of work that in the opinion of the Rail Division needs to be performed, future maintenance and who should bear the cost of the work to be performed and the future maintenance.

Other matters that may aid in expediting the orderly conduct and disposition of the proceeding, including the following:

- (A) The exchange and acceptance of service of exhibits proposed to be offered in evidence.
- (B) The obtaining of admissions as to, or stipulations of, facts not remaining in dispute, or the authenticity of documents which might properly shorten the hearing.
- (C) The discovery or production of data or other material.



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Prosecutor
Attorney ID No. 91822
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission

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Dated: December 10, 2012

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 in the manner indicated below:

Service by First Class Mail:

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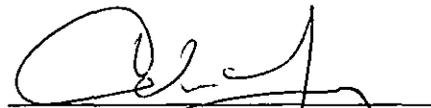
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