



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

February 1, 2013

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

RE: **Docket No. C-2012-2319319**

Dear Secretary Chiavetta:

Enclosed for filing please find one (1) copy of 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 as indicated by the Certificate of Service.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Nicholas D. Mertens".

Nicholas D. Mertens
Assistant Counsel

Enclosure

220/NDM:aca

cc: Ember Jandebour, Administrative Law Judge
Parties of Record
Mark J. Chappell, P.E., Chief, Utilities and Right-of-Way Section
Steve Betts, Grade Crossing Engineer, District 3-0

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Carl Lute	:	
	:	
v.	:	C-2012-2319319
	:	
Reading Blue Mountain & Northern	:	
Railroad, Conyngham Township,	:	
Columbia County, Commonwealth of	:	
Pennsylvania Department of Transportation	:	

**COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF
TRANSPORTATION'S PREHEARING CONFERENCE MEMORANDUM**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation ("Department"), by and through its counsel, Nicholas D. Mertens, Assistant Counsel, and submits the following Pre-Hearing Conference Memorandum in accordance with Paragraph Two (2) of the Prehearing Conference Order issued on January 23, 2013:

I. History of the Proceeding

On or about August 6, 2012, Carl Lute, a resident of Northumberland County, Pennsylvania filed a complaint against Reading Blue Mountain and Northern Railroad ("RBMN") with the Pennsylvania Public Utility Commission ("Commission"). The complaint alleges that an at-grade single track crossing of RBMN's line with State Route 0054 (DOT # 591 833D) is in a state of disrepair. The complainant is seeking RBMN to repair the crossing.

On or about August 16, 2012, the Department received the complaint and was named as a respondent, along with Conyngham Township and Columbia County. The Department filed an answer on or about August 23, 2012.

On August 27, 2012, the Commission held an informal field conference at the site. The conference was attended by the complainant, the Department, and the Commission's Bureau of Investigation and Enforcement. No representative for RBMN was in attendance. The complainant and the Department both agreed that a full replacement of the crossing was necessary due to the extensive damage at the crossing.

II. Presently Identified Issues

- a. Whether or not the crossing, where a single track of RBMN crosses State Route 0054 at-grade in Conyngham Township, Columbia County, is in a state of disrepair, and if so what maintenance must be completed to the crossing to alleviate any safety issues?
- b. Whether or not the crossing presents a safety hazard to the public, including vehicular and pedestrian traffic?
- c. Whether or not the crossing must be replaced or rebuilt?
- d. Which parties are responsible for making any necessary repairs to the crossing?
- e. Which parties are responsible for reconstruction or replacement of the crossing?
- f. Which parties should be allocated the costs of crossing maintenance?
- g. Which parties should be allocated the cost of any crossing reconstruction or replacement?
- h. Which parties should be assigned future maintenance responsibilities?

III. Name and Address of Witnesses

- a. Steve Betts, District Grade Crossing Engineer
Department of Transportation
Engineering District Office 3-0
715 Jordan Avenue
P.O. Box 218
Montoursville, PA 17754

IV. Subject of Witness Testimony

- a. Mr. Betts will testify regarding the history of the crossing, the history of problems with the crossing, the nature and cause(s) of the crossing deterioration, and Department's position as to the need for replacement of the crossing surface.

V. Written Testimony

- a. The Department requests that Your Honor direct the parties concerned with the above captioned matter to submit written testimony pursuant to 52 Pa. Code § 5.412.

VI. Proposed Procedural Schedule

- | | |
|------------------------------------|-------------------------------------|
| a. Written direct testimony due by | March 29, 2013 |
| b. Rebuttal testimony due by | April 5, 2013 |
| c. Hearing date | April 10, 2013 |
| d. Briefs due | 20 days after receipt of transcript |

Respectfully Submitted,



Nicholas D. Mertens
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Department of Transportation
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DATED: February 1, 2013

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Carl Lute	:	
	:	
v.	:	C-2012-2319319
	:	
Reading Blue Mountain & Northern	:	
Railroad, Conyngham Township,	:	
Columbia County, Commonwealth of	:	
Pennsylvania Department of Transportation	:	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the *Prehearing Memorandum* was served upon the parties below by first-class mail postage prepaid this 1st day of February, 2013:

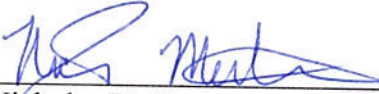
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