



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

February 11, 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 a copy of the Department's *Motion for Interim Order Assigning Maintenance of the Crossing and Approaches*, 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 "N. 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 MOTION FOR INTERIM ORDER ASSIGNING  
MAINTENANCE OF THE CROSSING AND APPROACHES**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation ("Department"), by and through its counsel, Nicholas D. Mertens, Assistant Counsel, in its Motion for Interim Order Assign Maintenance of the Crossing and its Approaches, respectfully represents:

1. 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").
2. The complaint alleges that an at-grade single track crossing of RBMN's line with State Route 0054 (DOT # 591 833 D) is in a state of disrepair.
3. On February 11, 2013, Your Honor held a Prehearing Conference, conducted in-person and via telephone, to establish, *inter alia*, a hearing date in the above captioned matter.
4. A hearing, in the above captioned matter, will be conducted on April 23, 2013, and if necessary, on April 24, 2013.
5. There are no Commission or Pennsylvania Public Service Commission orders assigning maintenance responsibilities at the subject crossing.
6. The Commission's paramount goals in regulating crossings are to prevent accidents and promote public safety. 66 Pa. C.S. § 2702 (b).
7. An interim order would promote the safety and welfare of the public by setting forth the responsibilities of the parties hereto until the Commission has issued a final order directing future maintenance responsibilities onto the concerned parties for the subject crossing and its approaches.

8. The Department respectfully asks Your Honor to adopt this motion and include the following language therein:
- a. Reading Blue Mountain and Northern Railroad, at its sole cost and expense, shall furnish all materials and perform all work necessary to maintain its railroad facilities at the subject crossing, including the warning devices and all appurtenant equipment, and to maintain at all times in a smooth and satisfactory condition the railroad crossing surfaces located between the rails and for a distance of twenty-four (24) inches beyond the rails; all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Order.
  - b. The Pennsylvania Department of Transportation, at its sole cost and expense, shall furnish all material and perform all work necessary to maintain its highway approaches to the subject crossing up to points twenty-four (24) inches beyond each outside rail and, in addition, maintain the grade crossing advance warning signs, stop lines and pavement markings on the approaches thereto in a safe and satisfactory condition; all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Order.

WHEREFORE, the Department of Transportation respectfully requests that Your Honor grant the Motion for an Interim Order Assigning Maintenance of the Crossing and Approaches.

Respectfully Submitted,



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Nicholas D. Mertens  
Assistant Counsel  
Pennsylvania Attorney I.D. Number 313998  
nimertens@pa.gov  
Gina M. D'Alfonso  
Assistant Counsel in Charge  
Pennsylvania Attorney I.D. Number 46767  
gdalfonso@pa.gov  
Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel  
P.O. Box 8212  
Harrisburg, PA 17105-8212  
Telephone No. (717) 787-3128  
Fax Number (717) 772-2741

DATED: February 11, 2013

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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 Columbia County, Commonwealth of :  
 Pennsylvania Department of Transportation :

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the *Motion for Interim Order* was served upon the parties below by first-class mail postage prepaid this 11<sup>th</sup> day of February, 2013:

Carl Lute  
143 Missouri Lane  
Kulpmont, PA 17834

Paul R. Ober, Esquire  
Paul Ober & Associates  
234 North 6<sup>th</sup> Street  
Reading, PA 19601

Adam D. Young, Esquire  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265

David D. Noon, Esquire  
Wiest, Muolo, Noon, Swinehart & Bathgate  
240-246 Market Street  
P.O. Box 791  
Sunbury, PA 17801

Anthony J. McDonald, Esquire  
Bull Bull Knecht, LLP  
106 Market Street  
Berwick, PA 18603



Alicia Adair  
Legal Assistant to Nicholas D. Mertens  
Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel  
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**NOTICE TO PLEAD**

This pleading has been filed with the Secretary of the Public Utility Commission. Any responsive pleading to this Motion must be filed within twenty (20) days of service of this Motion upon you. 52 Pa. Code § 5.103 (b) & (c).



Nicholas D. Mertens  
Assistant Counsel  
Pennsylvania Attorney I.D. Number 313998  
nimertens@pa.gov  
Gina M. D'Alfonso  
Assistant Counsel in Charge  
Pennsylvania Attorney I.D. Number 46767  
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