



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

April 16, 2013

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

RE: **Docket No. C-2012-2330567**

Dear Secretary Chiavetta:

Enclosed for filing please find a 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 that reads "Gina M. D'Alfonso".

Gina M. D'Alfonso
Assistant Counsel in Charge

Enclosure

220/GMD:aca

cc: Ember S. Jandebour, Administrative Law Judge
Parties of Record
Mark J. Chappell, P.E., Chief, Utilities and Right-of-Way Section
Rodney O. Rehnert, District Grade Crossing Engineer, District 5-0

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

CITY OF POTTSVILLE	:	Complaint Docket
Complainant	:	No: C-2012-2330567
	:	
v.	:	
	:	Electronically Filed
READING BLUE MOUNTAIN &	:	
NORTHERN RAILROAD,	:	
SCHUYLKILL COUNTY,	:	
PENNDOT	:	
Respondents	:	

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

In accordance with the Prehearing Conference Order dated March 20, 2013, in the above referenced matter, the Department of Transportation, (Department) offers the following in response to the specific requests contained in the Order:

This matter is before the Public Utility Commission as a result of a Complaint filed by the City of Pottsville alleging the disrepair of a pedestrian guiderail and that the guiderail is to be maintained by the Reading Blue Mountain and Northern Railroad ("Railroad"). The Railroad responded by filing and Answer and then Preliminary Objections which were denied by Administrative Law Judge Jandebaur by Order dated April 11, 2013.

1. The issues before the Public Utility Commission are:
 - a. Who is responsible for the repair and maintenance of the pedestrian guiderail?
 - b. Does the Public Utility Commission have jurisdiction over this issue pursuant to 66 Pa. C.S §1501.
2. At this time the Department intends to offer one witness to address the Department's responsibilities, if any, at this location:

Rodney Rehnert
District Grade Crossing Administrator
Pennsylvania Department of Transportation Engineering District 5-0
1002 Hamilton Street
Allentown, PA 18101-1013

3. The Department defers to the City of Pottsville and Reading Blue Mountain and Northern to propose a litigation schedule but will be prepared to discuss it at the Prehearing Conference. The Department does request, however, that the parties be required to submit written testimony in advance of the hearing.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



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

DATED: April 16, 2013

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

CITY OF POTTSVILLE	:	Complaint Docket
Complainant	:	No: C-2012-2330567
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NORTHERN RAILROAD,	:	
SCHUYLKILL COUNTY,	:	
PENNDOT	:	
Respondents	:	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Department's Prehearing Conference Memorandum was served upon the parties listed below, in accordance with the requirements of §1.54, by First-Class mail, postage prepaid and by electronic mail as indicated, this 16th day of April, 2013:

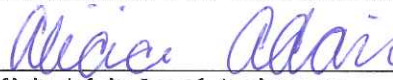
Adam D. Young, Esquire
PA Public Utility Commission
Law Bureau
P.O. Box 3265
Harrisburg, PA 17105-3265

Alvin B. Marshall, Esquire
Office of County Solicitor
401 North Second Street
Pottsville, PA 17901-2528

Thomas J. Pellish, Esquire
Solicitor
306 Mahantongo Street, 2nd Floor
Pottsville, PA 17901

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

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Alicia Adair, Legal Assistant to
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DATED: April 16, 2013