

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Carl Lute** :  
 : **Docket No. C-2012-2319319**  
 v. :  
 :  
 :  
 **Reading Blue Mountain and** :  
 **Northern Railroad, Conyngham** :  
 **Township, Columbia County,** :  
 **Commonwealth of Pennsylvania** :  
 **Department of Transportation** :

**RESPONSE TO MOTION IN LIMINE TO PRECLUDE THE WRITTEN DIRECT  
TESTIMONY OF READING BLUE MOUNTAIN AND NORTHERN RAILROAD**

1. Admitted.
2. Admitted.
3. Reading, Blue Mountain & Northern Railroad ("RBMNR") filed and served Reading Statement Number One (1) on March 11, 2013. RBMNR does not know when PennDOT received Reading Statement Number One (1) and therefore denies the statement that PennDOT received the document on March 13, 2013.
4. RBMNR filed and served their Praeceptum to Attach on March 12, 2013. RBMNR does not know when PennDOT received its Praeceptum to Attach and therefore denies the statement PennDOT received the document on March 14, 2013.
5. Admitted.
6. Denied. The statements in Paragraph 6 of PennDOT's Motion are conclusions of law to which no response is required. By way of further response, it is denied that Reading Statement Number Two (2) is untimely.
7. Denied. The statements in Paragraph 7 of PennDOT's Motion are conclusions of law

to which no response is required. By way of further response, it is denied that Reading Statement Number Two (2) is rebuttal testimony.

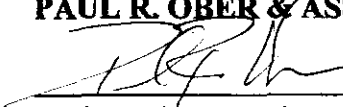
8. RBMNR's responses to Paragraphs 1 through 7 are incorporated herein as if set forth at length.
9. Denied. The statements in Paragraph 9 of PennDOT's Motion are conclusions of law to which no response is required. By way of further response, the other parties have not been prejudiced by RBMNR filing Reading Statement Number Two (2) after the March 11<sup>th</sup> deadline.
10. Admitted. The other parties have not been prejudiced by RBMNR filing Reading Statement Number Two (2) after the March 11<sup>th</sup> deadline.
11. Denied. The statements in Paragraph 11 of PennDOT's Motion are conclusions of law to which no response is required. RBMNR Statement Number Two (2) references exhibits 1-27. The exhibits have already been received by the parties through the discovery process and were sent on Compact Discs.
12. Denied. The statements in Paragraph 12 of PennDOT's Motion are conclusions of law to which no response is required. By way of further response, the Motion in Limine should be denied because the other parties have not been prejudiced by RBMNR filing Reading Statement Number Two (2) after the March 11<sup>th</sup> deadline.
13. Denied. The statements in Paragraph 13 of PennDOT's Motion are conclusions of law to which no response is required. By way of further response, the Motion in Limine should be denied because the other parties have not been prejudiced by RBMNR filing Reading Statement Number Two (2) after the March 11<sup>th</sup> deadline.
14. Denied. The statements in Paragraph 14 of PennDOT's Motion are conclusions of law

to which no response is required.

15. Denied. The statements in Paragraph 15 of PennDOT's Motion are conclusions of law to which no response is required. By way of further response, two week is more than an adequate period of time to prepare for cross examination of RBMNR's witness.
16. Admitted.
17. Denied. The statements in Paragraph 17 of PennDOT's Motion are conclusions of law to which no response is required.
18. Denied. The statements in Paragraph 18 of PennDOT's Motion are conclusions of law to which no response is required. By way of further response, the Motion in Limine should be denied because the other parties have not been prejudiced by RBMNR filing Reading Statement Number Two (2) after the March 11<sup>th</sup> deadline.
19. Denied. The statements in Paragraph 19 of PennDOT's Motion are conclusions of law to which no response is required. By way of further response, the Motion in Limine should be denied because the other parties have not been prejudiced by RBMNR filing Reading Statement Number Two (2) after the March 11<sup>th</sup> deadline.
20. Denied. The statements in Paragraph 20 of PennDOT's Motion are conclusions of law to which no response is required.

WHEREFORE, Reading, Blue Mountain and Northern Railroad respectfully requests that the Department's Motion in Limine be dismissed.

Respectfully submitted:  
**PAUL R. OBER & ASSOCIATES**

  
Paul R. Ober, Esquire  
Attorney for Reading Blue Mountain  
& Northern Railroad Company

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of Defendant's Pre-Filed Direct Testimony of Reading Blue Mountain and Northern Railroad in accordance with the requirements of 52 Pa. Code Section 1.54 *et. Seq.* (relating to service by participant):

**VIA FIRST CLASS MAIL:**

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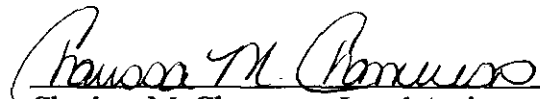
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Dated: 4/16/13



Charissa M. Chamuras, Legal Assistant  
to Paul R. Ober, Esquire