

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**PETITION FOR RECONSIDERATION OF THE COMMISSION'S ORDER OF  
APRIL 11, 2013**

NOW COMES Reading, Blue Mountain & Northern Railroad Company ("RBMN"), by and through its attorneys, Paul R. Ober, Esquire, and Paul R. Ober & Associates, and states the following:

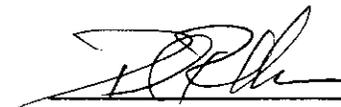
1. On April 11, 2013, the Pennsylvania Public Utility Commission (the "PUC") entered an Order (the "Order") in the above-referenced matter, attached hereto as Exhibit "A."
2. In said Order, the Commission disposed of certain Preliminary Objections submitted by RBMN concerning the Commission's jurisdiction.
3. At issue are questions concerning RBMN's obligation to repair a handrail adjacent to a city street which is not at a crossing, is not a "facility" or "service" of the Railroad and is outside the Railroad's right-of-way.
4. In reaching its conclusions, the Commission stated "one cannot determine where the guide rail is . . . therefore it is impossible to determine jurisdiction". The Commission then denied Respondent's preliminary objections.
5. Nonetheless, the Commission reached its findings without basic due process, inasmuch as:
  - a. No hearings were ever held in the matter;
  - b. There was no testimony or evidence provided to the Commission;
  - c. Neither RBMN, nor any other party, had any opportunity to present any evidence;

- d. No record was made of any of the proceedings in this case; and
  - e. There was no opportunity to be heard, other than the two on-site meetings.
6. As noted by the Commission, the Parties did not agree on certain critical points (page 3 of the Commission's Order).
  7. The factual basis upon which the Commission's April 11, 2013 Order was entered are unsupported by the evidence.
  8. RBMN believes that the conclusions reached in the PUC's Order involve a discrete area of the law which requires further review by the Commission and which presents unique and compelling circumstances.
  9. Simultaneously with this Petition, RBMN has filed a Motion for Certification of an Interlocutory Order and Stay of Proceedings Pending Appeal to the Commonwealth Court.
  10. The Order entered April 11, 2013 is apparently not a final order. However, the threshold issue of jurisdiction must be decided before RBMN incurs additional costs in the defense of this action.

WHEREFORE, RBMN respectfully requests that the Commission reconsider its Order of April 11, 2013 and reopen this case for an evidentiary hearing on the issue of jurisdiction or, in the alternative, certify the Interlocutory nature of the Order and stay its proceedings pending Appeal.

Respectfully submitted,  
**Paul R. Ober & Associates**

Date: 4/19/13



Paul R. Ober, Esquire  
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Attorney for RBMNR  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 19, 2013, I have served a true and correct copy of the foregoing Petition for Reconsideration of the Commission's Order of April 11, 2013 of Reading Blue Mountain & Northern Railroad upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

Alvin B. Marshall, Esquire  
Schuylkill County Solicitor  
Schuylkill County Courthouse  
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Dated: 4/19/13

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