



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

August 29, 2013

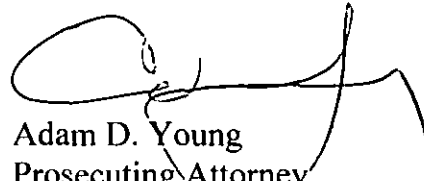
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: A. Edward Schwartz v. Canadian and Pacific Railroad and Pennsylvania
Department of Transportation
P-2011-2241780; C-2011-2237486

Dear Ms. Chiavetta:

Enclosed for filing are Exceptions of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission in the above-referenced case. Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,



Adam D. Young
Prosecuting Attorney
Attorney ID No. 91822

Counsel for the Bureau of
Investigation and Enforcement

Enclosures

cc: As per Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

A. Edward Schwartz

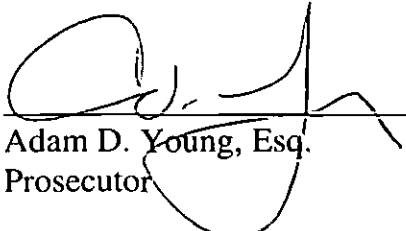
v.

**Canadian and Pacific Railroad and
Pennsylvania Department of Transportation :**

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**P-2011-2241780
C-2011-2237486**

EXCEPTIONS OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT



Adam D. Young, Esq.
Prosecutor

Counsel for the Bureau of Investigation
and Enforcement

P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-5000

Dated: August 29, 2013

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INTRODUCTION

The Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission), through its Prosecuting Attorney, Adam D. Young, now files the following Exception to the Initial Decision of Administrative Law Judge David A. Salapa (ALJ), and states as follows:

EXCEPTIONS

1. I&E is in agreement with the well-reasoned Recommended Decision of the ALJ in this matter, but requests that the Commission consider one additional requirement with regards to the abolition of this crossing. As a part of the bridge removal project, in addition to the placement of barricades across S.R. 4009 where the subject bridge once stood, either PennDOT or the Delaware and Hudson Railway Company, Inc. d/b/a Canadian Pacific Railroad should install turn-around cul-de-sacs for vehicles. (Initial Decision at 37-38) (Conclusions of Law Numbers 12 and 13) (Ordering Paragraph No. 7 and 8). Additionally, appropriate signs should be placed along S.R. 4009 indicating that the road is now a dead-end, has no outlet, and/or no that through traffic is allowed.

ARGUMENT

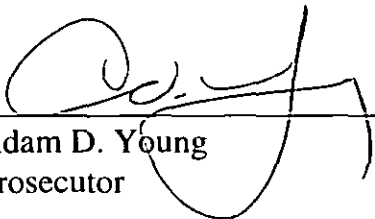
State Route 4009 (Sunset Road) is a fairly narrow road (approximately 24' wide), which would allow very little room for vehicles approaching the barricades to turn around. Without a means for vehicles to turn around, motorists will likely utilize Mr. Schwartz's driveway. Installing turn-arounds may involve the Commission's power of appropriation or PennDOT's power of eminent domain, to acquire enough property to

install adequately sized cul-de-sacs, or else Mr. Schwartz might be willing to volunteer his property for such use. Because cul-de-sacs would be installed on either side of the abolished crossing, thereby dead-ending a state route, it seems appropriate for PennDOT to install the cul-de-sacs at its initial cost and expense subject to possible reimbursement from other parties at a later time. As a PennDOT facility, future maintenance should be assigned to PennDOT as well.

CONCLUSION

For the reasons set forth in these Exceptions, I&E respectfully requests that the Commission issue an Opinion and Order granting this exception and ordering the installation of cul-de-sacs on either side of the abolished crossing where S.R. 4009 will be barricaded.

Respectfully submitted,



Adam D. Young
Prosecutor

Counsel for the Bureau of Investigation and
Enforcement of the Pennsylvania Public Utility
Commission

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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document, Exceptions of the Bureau of Investigation and Enforcement, in accordance with the requirements of 52 Pa. Code § 1.54 *et seq.* (relating to service by a participant).

Service by First Class Mail:

Hon. David A. Salapa
Administrative Law Judge
Pa Public Utility Commission
PO Box 3265
Harrisburg, PA 17120

Gina M. D'Alfonso
PennDOT-Office of Chief Counsel
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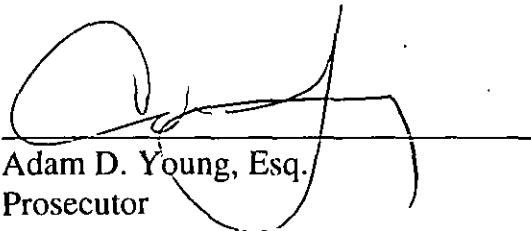
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