



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

October 1, 2013

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

RE: **Docket No. M-2013-2364201**

Dear Secretary Chiavetta:

Enclosed for filing please find 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, reading "gina m. d'alfonso".

Gina M. D'Alfonso  
Assistant Counsel in Charge

Enclosure

220/GMD:aca

cc: David A. Salapa, Administrative Law Judge  
Parties of Record  
Mark J. Chappell, P.E., Chief, Utilities and Right-of-Way Section  
Debbie Noone, Assistant District Executive – Design, District 4-0  
Gerard Babinski, Senior Civil Engineer Supervisor Bridge, District 4-0  
Joseph Strok, District Grade Crossing Engineer, District 4-0

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bridge Structure where State Route 1025 :  
crosses over a single track of Canadian : M-2013-2364201  
Pacific Railway (264 293 K) in Nicholson :  
Borough, Wyoming County :

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

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation ("Department"), by and through its counsel, Gina M. D'Alfonso, Assistant Counsel in Charge, and submits the following Pre-Hearing Conference Memorandum in accordance with Paragraph Three (3) of the Prehearing Conference Order dated August 22, 2013:

I. Service on and correspondence with the Department may be limited to:

- a. 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: 717-787-3128  
Fax: 717-772-2741  
gdalfonso@pa.gov

II. Settlement

- a. The Department is willing to engage in good faith settlement discussions.

III. Proposed plan and schedule of discovery

- a. The Department does not foresee the need to conduct extensive discovery in this matter. All discovery, if any, should be conducted on an informal basis and pursuant to the Commissions Regulations, 52 Pa. Code § 5.321 *et seq.* The Department requests that the discovery period be closed twenty (20) days prior to the submission of written pre-filed testimony.

IV. Other proposed orders with respect to discovery

- a. None.

V. Proposed testimony, hearing, and briefing schedule

- a. Written direct testimony due within 20 days prior to hearing
- b. Rebuttal testimony due within 10 days prior to hearing
- c. Hearing Date Week December 9, 2013
- d. Brief due within 20 days after the date of service of notice of filing of the transcript
- e. Reply briefs due by 30 days after the date of service of notice of filing of the transcript

VI. Name and Addresses of Potential Witnesses

- a. Joseph Strok  
District Grade Crossing Engineer  
55 Keystone Industrial Park  
Dunmore, PA  
(570) 963-4995

Mr. Strok will offer testimony regarding the location and designation of the subject highway, the average daily traffic of the crossing, the existence of prior Commission Orders, and the benefits attributed to the railroad for grade-separated crossings. Mr. Strok will also testify regarding the costs incurred by the Department to comply with the Commission's orders in this matter.

- b. Gerard Babinski, P.E.  
District Bridge Engineer  
55 Keystone Industrial Park  
Dunmore, PA  
(570) 936-4091

Mr. Babinski, will offer testimony regarding the condition and structural integrity of the subject bridge, the feasibility of reopening the bridge, the parties responsible for the past and future maintenance of the bridge, and the future disposition, including potential repairs or replacement, of the subject bridge and

who should bear the costs. Mr. Babinski will also offer the inspection report and the in-depth analysis subject to the Protective Order.

The Department reserves the right to supplement the testimony of these witnesses and/or call additional witnesses as this case develops.

VII. Issues and sub-issues of this proceeding which the party intends to address and a statement of the party's position on each of the issues and sub-issues listed:

- a. What remedial action can be taken to reopen the subject bridge safely to the public?

The analysis supports reopening the structure to one lane of traffic controlled by stop signs. The lane restriction will be performed with barrier and protective fence for pedestrians.

- b. Which party should be responsible for the work performed to date and future work to reopen the bridge?

The railroad, consistent with the 1951 Order in this matter should bear all costs associated with the closure of this bridge, the engineering analysis and inspections and all costs associated with reopening the bridge.

- c. Which party should be responsible for the future maintenance of the structure and the associated costs?

Consistent with the 1951 Order, the railroad should be ordered to maintain the structure. The Department will agree to maintain the wearing surface and the approaches.

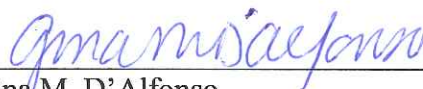
VIII. Statement describing the evidence the party proposes to present at the hearing, relating to each of the issues and sub-issues the party intends to address:

- a. NBIS Bridge Inspections reports;
- b. Engineering inspections, analysis and/or reports to determine the existing structural condition of the subject bridge;
- c. Study and analysis determining the feasibility and any remedial action to reopening the bridge safely to the public as well as a proposed plan for work to be performed to reopen the bridge;

- d. Commission Order at Docket No. 76276 entered June 11, 1951;
- e. Location map of the subject bridge; and
- f. Itemized list of costs incurred by the Department pursuant to Commission Order entered May 23, 2013 *as amended* by the Commission Opinion and Order entered August 16, 2013.

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: October 1, 2013

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bridge Structure where State Route 1025 :  
crosses over a single track of Canadian : M-2013-2364201  
Pacific Railway (264 293 K) in Nicholson :  
Borough, Wyoming County :

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Department's *Prehearing Conference Memorandum* was served upon the parties below by E-mail and First-Class mail; postage prepaid this 1<sup>st</sup> day of October, 2013:

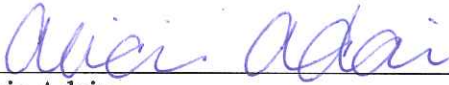
Erin A. Brennan, Esquire  
Oliver Price and Rhodes  
1212 South Abington Road  
P.O. Box 240  
Clarks Summit, PA 18434

James E. Davis, Esquire  
7 Marion Street  
Tunkhannock, PA 18657

Anthony P. Litwin Esquire  
24 East Tioga Street  
Tunkhannock, PA 18657

Adam D. Young  
PA Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17120

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

  
\_\_\_\_\_  
Alicia Adair  
Legal Assistant to 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

DATED: October 1, 2013