

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Consolidated Rail Corporation	:	
for the abolition of thirty-one crossings of the	:	A-00111016
Enola Branch, LC201323, MP 3.5 to MP 27.0,	:	
Sub No. 1095, Harrisburg Division, Lancaster	:	
County	:	
	:	
Board of Supervisors of Bart Township,	:	
	:	
v.	:	C-00913256
	:	
Consolidated Rail Corporation,	:	
and the Pennsylvania Department of	:	
Transportation and Commissioners of the	:	
County of Lancaster, et al.	:	

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PREHEARING CONFERENCE ORDER

On October 9, 1997, the Pennsylvania Public Utility Commission (Commission) entered an Opinion and Order approving a Stipulation of Settlement entered into by multiple parties to resolve various issues in connection with an Application filed by Consolidated Rail Corporation (Conrail) at Docket Nos. A-00111016 and C-00913256. Conrail's Application sought the abolition of thirty-one (31) crossings where the Enola Branch, Harrisburg Division, crossed above and below certain highways in a total of eight (8) municipalities in Lancaster and Chester Counties.

On April 17, 2012, Eden Township, a Second Class Township in Lancaster County ("Eden Township"), filed a Petition to Modify Portions of the October 9, 1997 Opinion and Order (Petition) pertaining to the crossing identified in the 1997 Order as Crossing No. 10 (Pumping Station Road) ("Crossing No. 10"). Crossing No. 10 is a below-grade crossing where Pumping Station Road crosses under the railroad right-of-way in Eden Township. The bridge at this crossing is a stone arch culvert that is 31 feet in length and is located beneath the railroad embankment. The bridge is of stone

masonry construction, including the headwalls, wingwalls and abutments. The bridge has a maximum vertical clearance of 12 feet 4 inches at the center of the arch and a horizontal clearance of 30 feet.

On May 9, 2012, the Commonwealth of Pennsylvania, Department of Transportation (PennDOT) filed an Answer opposing the Petition filed by Eden Township and requesting that the Petition be denied. On May 11, 2012, the Commission's Prosecutory Staff filed a letter opposing the Petition filed by Eden Township and requesting an evidentiary hearing be held or, in the alternative, the Petition be denied. On November 19, 2012, the Commission granted the Prosecutory Staff's request for an evidentiary hearing and referred the matter to the Office of Administrative Law Judge for further proceedings.

On January 23, 2013, a Notice was issued establishing a Further Prehearing Conference for this matter for Thursday, February 21, 2013 at 10:00 a.m. in Hearing Room 4 of the Commonwealth Keystone Building in Harrisburg. Administrative Law Judges Elizabeth H. Barnes and Joel H. Cheskis were assigned as Presiding Officers.

In accordance with the provisions of 66 Pa. C.S. §333 and 52 Pa. Code §§ 5.221 – 5.223, a Further Prehearing Conference has been scheduled in the above-captioned case.

THEREFORE,

IT IS ORDERED:

1. That a Further Prehearing Conference shall be held at 10:00 a.m. on Thursday, February 21, 2013, in Hearing Room 4 of the Commonwealth Keystone Building, 400 North Street, Harrisburg, PA.
2. That absent a continuance for good cause, all parties must be

prepared to participate in the scheduled prehearing conference. Failure of a party to participate in the conference, after being served with notice of the time thereof, without good case shown, shall constitute a waiver of all objections to the agreements reached and an order or ruling with respect thereto.

3. That all parties shall review the regulations relating to discovery, specifically 52 Pa. Code § 5.331(b), which provides, among other things, that “a party shall initiate discovery as early in the proceedings as reasonably possible,” and 52 Pa. Code § 5.322, which encourages parties to exchange information on an informal basis. All parties are urged to cooperate in discovery. There are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa. Code §§5.361, 5.371 – 5.372.

4. That pursuant to 52 Pa. Code §§1.21 – 1.23, you may represent yourself, if you are an individual, or you may have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *pro hac vice*, represent you. However, if you are a partnership, corporation, trust, association, or governmental agency or subdivision, you must have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *pro hac vice*, represent you in this proceeding. Unless you are an attorney, you may not represent someone else. Attorneys shall insure that their appearance is entered in accordance with the provisions of 52 Pa. Code § 1.24(b).

5. That you must serve us directly with a copy of any document that you file in this proceeding. If you send us any correspondence or document, you must send a copy to all other parties. For your convenience, a copy of the Commission’s current service list of the parties to this proceeding is enclosed with this Order.

6. That parties shall review the regulations pertaining to prehearing conferences, in particular 52 Pa. Code §5.222(d), which provides that parties and counsel will be expected to attend the conference fully prepared for useful discussion of all problems involved in the proceeding, both procedural and substantive, and fully authorized to make commitments with respect thereto. The preparation should include,

among other things, advance study of all relevant materials, and advance informal communication between the participants, including requests for additional data and information, to the extent it appears feasible and desirable.

7. That pursuant to 52 Pa.Code §1.55, each party shall be limited to one entry on the service list. Parties shall provide the name, business address, business telephone number and business e-mail address (if any) of the person they wish to have listed on the service list.

8. That on or before **Friday, February 15, 2013**, any party wishing to participate in the Further Prehearing Conference shall serve us and each other with a Prehearing Conference Memorandum addressing:

- a.) The information described in Paragraph 7, above.
- b.) A statement regarding possible settlement of the case, subject to approval of the Pennsylvania Public Utility Commission and submission of substantial evidence.
- c.) A proposed plan and schedule of discovery.
- d.) A proposed schedule for litigation.
- e.) Names, business addresses, and telephone numbers of witnesses the party expects to call and the subject matter of each witness' testimony.
- f.) A list of the 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.


9. That parties serving pre-served testimony pursuant to 52 Pa. Code § 5.412(f) shall be required, within thirty (30) days after the final hearing, to either eFile with or provide to the Secretary's Bureau a Compact Disc (CD) containing all testimony furnished to the court reporter during the proceeding, consistent with the Commission's Implementation Order, dated January 10, 2013, at Docket No. M-2012-2331973.

10. That a request for a change of the scheduled further prehearing conference date shall state the agreement or opposition of other parties, and shall be submitted in writing no later than five (5) days prior to the further prehearing conference. 52 Pa. Code §1.15(b). Requests for change must be sent to us with copies to all parties of record. Our address is:

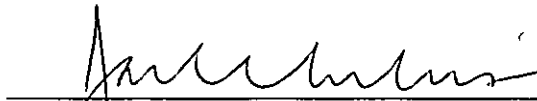
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11. Only parties who have properly intervened will remain on the service list following the Further Prehearing Conference and receive future correspondence and documents pertaining to this matter.

Date: January 25, 2013



Elizabeth H. Barnes
Administrative Law Judge



Joel H. Cheskis
Administrative Law Judge