

LUZERNE COUNTY COMMISSIONERS
THOMAS A. MAKOWSKI, ESQ., CHAIRMAN
FRANK P. CROSSIN
JOSEPH "RED" JONES

ORIGINAL



LUZERNE COUNTY
200 NORTH RIVER STREET
WILKES-BARRE, PENNSYLVANIA 18711-1001

(570) 825-1500
FAX (570) 825-9343
TDD (570) 825-1860

July 2, 1999

EUGENE R. KLEIN
Chief Clerk / Administrator

JAMES P. BLAUM, ESQ.
Acting Chief County Solicitor

063609

DOCKETED

Pennsylvania Public Utility Commission JUL 16 1999
P.O. Box 3265
Harrisburg PA 17105-3265

RE: DURYEY BOROUGH COMPLAINT
DOCKET NO. C-00992585
REF. # 500014

RECEIVED
SECRETARY'S BUREAU

99 JUL -6 AM 9:45

DOCUMENT
FOLDER

Dear Sir/Madam:

This is to advise that I have received this day a copy of the enclosed Complaint filed by Duryea Borough complaining of Reading and Northern Railroad. However, the Notice and caption of the Complaint lists Richard M. Goldberg – Solicitor as Respondent. Mr. Goldberg is the former Luzerne County Solicitor who resigned his position in January 1999. The Complaint makes no reference to Luzerne County Government or to Attorney Goldberg, specifically.

It is apparent that an error was made in the formal Complaint Notice to Respondent and the letter which accompanied it. In light of the fact that no reference is made to Luzerne County Government and/or Attorney Goldberg in the body of Duryea's Complaint I am requesting that the twenty (20) days period for responding to the Complaint be stayed pending your evaluation of the patent problem presented by the enclosures.

Further, I have spoken directly with the Solicitor for Duryea Borough, Attorney Brian Corcoran, who advised that there must be some mistake since the Borough's Complaint concerning the Reading and Northern Railroad has nothing to do with Luzerne County or Attorney Goldberg, specifically.

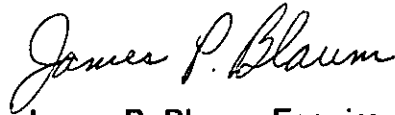
I would appreciate your confirming the fact that this Complaint has nothing to do with either Luzerne County Government or Attorney Goldberg at your earliest convenience.

EEF

Pennsylvania Public Utility Commission
July 2, 1999
Page 2

I look forward to hearing from the Commission at your earliest possible convenience.

Respectfully,



James P. Blaum, Esquire
Acting Chief County Solicitor



JPB/hem
enclosures

READING & NORTHERN RAILROAD COMPANY

1 RAILROAD BOULEVARD
PORT CLINTON, PA 19549
(610) 562-2100

FREIGHT DIVISION - P.O. BOX 218

PASSENGER DIVISION - P.O. BOX 215

July 13, 1999

ORIGINAL

Commonwealth of PA
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

DOCKETED

JUL 19 1999

064992

RE: Duryea Borough Complaint Docket # C-00992585

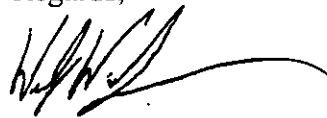
**DOCUMENT
FOLDER**

Dear Sir or Madam:

The Reading Blue Mountain & Northern Railroad, in defense of this claim, will be representing themselves in the settlement of this complaint.

99 JUL 14 AM 8:39
RECEIVED
SECRETARY'S BUREAU

Regards,



Wesley Westenhofer
Assistant Financial Officer

EEF

2



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

IN REPLY PLEASE
REFER TO OUR FILE

July 14, 1999

C-00992585

JAMES P BLAUM ESQUIRE
ACTING CHIEF COUNTY SOLICITOR
LUZERNE COUNTY
200 NORTH RIVER STREET
WILKES-BARRE PA 18711-1001

DOCKETED
JUL 16 1999

DOCUMENT
FOLDER

Duryea Borough
v.
Reading, Blue Mountain & Northern Railroad, PennDot, Luzerne County

Dear Mr. Blaum:


Receipt is acknowledged of your letter dated July 2, 1999, regarding the complaint filed by Duryea Borough in the above entitled proceeding.

Attorney Goldberg was served with a copy of the complaint, since he is the Solicitor for Luzerne County. When a complaint is filed against a railroad, the Commission serves a copy of the complaint on the County for answer in twenty (20) days where the crossing is involved. The notice should have stated Duryea Borough v. Luzerne County.

I trust this information is helpful to you.

Very truly yours,

EEF


James J. McNulty
Secretary

JJM:jep

cc: Bureau of Transportation & Safety - Rail Division
Bureau of Transportation & Safety - Legal Division

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Office of Chief Counsel
Forum Place
555 Walnut Street - 9th Floor
Harrisburg, Pennsylvania 17120
Telephone No. (717) 787-3128
Fax No. (717) 772-2741

ORIGINAL

July 14, 1999

Prothonotary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Duryea Borough v.
Reading and Northern Railroad
Docket No. C-00992585

RECEIVED
99 JUL 14 AM 10:41
F.A.P.U.C.
SECRETARY'S BUREAU

Dear Prothonotary:

Enclosed for filing please find the original and three (3) copies of the Answer and New Matter of the Department of Transportation to be filed in the above-captioned matter.

I hereby certify that the parties indicated on the Certificate of Service have been served with a copy of said Response.

Very truly yours,

Gina M. D'Alfonso
Assistant Counsel in Charge

220/GMD:sls

cc: William D. Pickering, P.E. (Attn: Roger S. Aulakh)
District 4-0 (Attn: Joseph Strok)
Parties of Record

30

DOCUMENT
FOLDER

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

DURYEA BOROUGH : Docket No.
: C-00992585
:
v. :
:
READING AND NORTHERN :
RAILROAD :

RECEIVED
99 JUL 14 AM 10:41
F.A.P.U.C.
SECRETARY'S BUREAU

ANSWER AND NEW MATTER

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation, (Department), by and through its Counsel, Gina M. D'Alfonso and offers the following Answer and New Matter to the Complaint filed by Duryea Borough:

1. Admitted.
2. Admitted.
3. Admitted only to the extent that the crossings appear to require regular, routine maintenance and show signs of normal deterioration. The Department demands strict proof of all other allegations contained in paragraph 3.
4. Admitted.

NEW MATTER

5. To the extent the document served on the Department of Transportation appears as if the Respondent is Andrew Gordon, Chief Counsel of the Department of Transportation, the Department

DOCUMENT
FOLDER

DOCKETED
JUL 14 1999

respectfully request that any further documentation filed with the Public Utility Commission indicate that the appropriate Respondent is the Commonwealth of Pennsylvania, Department of Transportation, and not Chief Counsel Gordon.

WHEREFORE, the Department of Transportation respectfully requests that the relief sought herein be granted.

Respectfully submitted,


Gina M. D'Alfonso
Gina M. D'Alfonso
Assistant Counsel in Charge
ID No. 46767
Commonwealth of Pennsylvania
Department of Transportation
Forum Place - 9th Floor
555 Walnut Street
Harrisburg, PA 17101-1900
Telephone No. (717) 787-3128

DATED: July 14, 1999

A F F I D A V I T

I, Roger S. Aulakh, P.E., Grade Crossing Engineer, on behalf of the Pennsylvania Department of Transportation, Respondent in the foregoing action, hereby verify that I am authorized to execute this Affidavit. I have read the foregoing Answer and the facts set forth are true and correct to the best of my knowledge, information and belief.

This Affidavit is made subject to penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.



Roger S. Aulakh, P.E.
Grade Crossing Engineer

DATED: July 13⁴, 1999

RECEIVED
99 JUL 14 AM 10:41
PA.P.U.C.
SECRETARY'S BUREAU

V E R I F I C A T I O N

I, Gina M. D'Alfonso, Assistant Counsel in Charge, counsel for the Commonwealth of Pennsylvania, Department of Transportation, in this matter, hereby verify that the statements made in the foregoing Answer are true and correct to the best of my knowledge, information and belief. I understand that this statement is made subject to penalties of 18 Pa. C.S. §4904, relating to the unsworn falsification to authorities.



Gina M. D'Alfonso
Assistant Counsel in Charge

DATED: July 14, 1999

RECEIVED
99 JUL 14 AM 10:41
PA.P.U.C.
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that I am this date serving the foregoing document upon the persons and in the manner indicated below:

SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOW:

Reading, Blue Mountain & Northern
Railroad
P.O. Box 218
Port Clinton, PA 19549

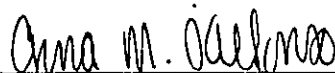
Duryea Borough
315 Main Street
Duryea, PA 18642

Richard M. Goldberg, Solicitor
Luzerne County Court House
200 N. River Street
Wilkes Barre, PA 18711

Barry J. Chromey
629 S. Main Street
Old Forge, 18518

Brian Corcoran
400 Third Avenue
Kingston, PA 18704

RECEIVED
99 JUL 14 AM 10:41
PA.P.U.C.
SECRETARY'S BUREAU



Gina M. D'Alfonso
Assistant Counsel in Charge
ID No. 46767
Commonwealth of Pennsylvania
Department of Transportation
Forum Place - 9th Floor
555 Walnut Street
Harrisburg, PA 17101-1900
Telephone No. (717) 787-3128

DATED: July 14, 1999

LUZERNE COUNTY COMMISSIONERS
THOMAS A. MAKOWSKI, ESQ., CHAIRMAN
FRANK P. CROSSIN
JOSEPH "RED" JONES

ORIGINAL



EUGENE R. KLEIN
Chief Clerk / Administrator

JAMES P. BLAUM, ESQ.
Acting Chief County Solicitor

LUZERNE COUNTY
200 NORTH RIVER STREET
WILKES-BARRE, PENNSYLVANIA 18711-1001

(570) 825-1500
FAX (570) 825-9343
TDD (570) 825-1860

July 15, 1999

RECEIVED

JUL 16 1999

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg PA 17105-3265

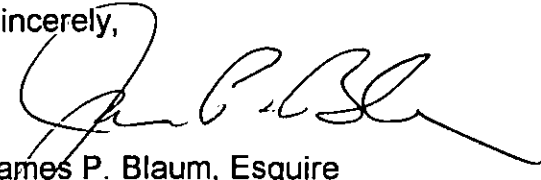
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

RE: DURYEA BOROUGH VS. LUZERNE COUNTY
DOCKET NO: C-00992585

Dear Mr. McNulty:

Enclosed find the original and three (3) copies of the Answer in the above referenced matter.

Sincerely,


James P. Blaum, Esquire
Acting Chief County Solicitor

JPB/hem
enclosures

DOCUMENT
FOLDER

EEF

PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

JUL 16 1999

DURYEA BOROUGH,

Complainant

VS.

READING AND NORTHERN
RAILROAD

Respondent

DOCKET NO: C-00992585

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ORIGINAL

ANSWER AND NEW MATTER

AND NOW, comes Luzerne County, by and through its counsel, James P.

Blaum and makes Answer and New Matter to the Complain as follows:

1. Admitted.

2. Admitted.

3. Admitted in part and denied in part the averments contained in paragraph three (3) of the Complaint are deemed to be denied and that after reasonable investigation the Respondent, Luzerne County is without information on which to form a belief as to the truth of the averments contained therein. By way of further averments averred that Complainant's Complaint makes no allegation that any railroad lines at any railroad crossing in Duryea Borough belongs to Luzerne County or, if so, that such line(s) is not in good condition.

4. The statements in paragraphs four (4) do not constitute averments to which a response is required. By way of further answers the Respondent, Luzerne County would have no objection to the inspection of the crossings in question and the Commission directing the responsible parties to take

DOCKETED DOCUMENT

JUL 19 1999

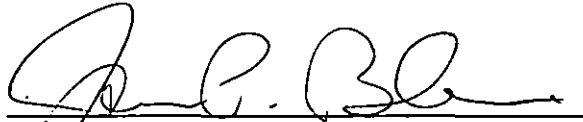
FOLDER

appropriate action to correct and repair the railroad lines at the crossings in question.

5. The document served on Luzerne County appears as if the Respondent is Richard M. Goldberg, Solicitor. Luzerne County respectfully requests the caption be amended to reflect Luzerne County as Respondent.

WHEREFORE, the respondent, Luzerne County, respectfully prays that this Complaint be dismissed as to Luzerne County for failure to set forth a cause of action against Luzerne County and due to the fact that no railroad lines owned by Luzerne County and Duryea Borough are in a condition of disrepair or deterioration.

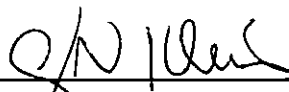
Respectfully submitted,

A handwritten signature in cursive script, appearing to read "J. P. Blaum", written over a horizontal line.

James P. Blaum, Esquire
Acting Chief County Solicitor
For Luzerne County

VERIFICATION

I, verify that the statements contained in the foregoing ANSWER is true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification.



Eugene R. Klein,
Chief Clerk/Administrator

DATED: 7/16/99