



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

December 3, 2015

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 *Motion for Further Continuance of the Hearing Scheduled for February 4, 2016* 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, appearing to read "N. D. Mertens".

Nicholas D. Mertens
Assistant Counsel

Enclosure

220/NDM:aca

cc: Parties of Record
Mark J. Chappell, P.E., Chief, Utilities and Right-of-Way Section
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	:	M-2013-2364201
Delaware and Hudson Railway	:	
Company, Inc. (264 293 K) in	:	Electronically Filed
Nicholson Borough, Wyoming County.	:	

**MOTION FOR FURTHER CONTINUANCE OF THE
HEARING SCHEDULED FOR FEBRUARY 4, 2016**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation (“Department”), by and through its counsel, Nicholas D. Mertens, Assistant Counsel, and hereby files the within Motion for Continuance in the above captioned matter, in accordance with 52 Pa. Code § 1.15(b), and submits the following in support of said Motion:

1. On November 8, 2013, the Pennsylvania Public Utility Commission (“Commission”) issued a Secretarial Letter directing the Department to perform certain work to the highway-rail crossing where State Route 1025 crosses over and above a single track, owned at the time, by the Delaware and Hudson Railway Company (“D&H”).
2. On October 30, 2014, the Department filed a Petition requesting a hearing, in the above captioned matter, for the purpose of allocating costs associated with the aforementioned secretarial letter.
3. The matter was assigned to the Office of Administrative Law Judge for the purposes of conducting a cost allocation hearing.
4. On March 9, 2015, Norfolk Southern Railway Company (“NS”) filed a Motion to Join, or in the Alternative Petition to Intervene, and Motion for Continuance in the present matter.
5. The Motion/Petition stated that NS was currently in negotiations to acquire the subject rail line from D&H.

6. The Petition was granted by ALJ David A. Salapa on March 23, 2015.
7. The initial cost allocation hearing was scheduled for February 20, 2015; after various continuances, the hearing was rescheduled to February 4, 2016.
8. On April 9, 2015, the Commission entered an Order, at Docket No. I-2015-2472242, and instituted an investigation for the purpose of determining all matters relating to the condition and disposition of six highway-rail crossing structures owned and operated by D&H in both Susquehanna and Lackawanna Counties.
9. The Commission Ordered the Department to provide bridge inspection reports and in-depth load rating analysis for the six bridge structures.
10. SR 1025 is located on the same rail line as the six structures involved in Docket No. I-2015-2472242.
11. On or about September 19, 2015, the Norfolk Southern Corporation acquired the subject line, involved in both the present matter and Docket No. I-2015-2472242, from D&H.
12. The Department anticipates finalizing the required bridge inspection reports and in-depth load rating analysis, for Docket No. I-2015-2472242, by the end of February 2016.
13. Once the reports and analysis are final and reviewed by the parties, the Department and NS are scheduled to discuss the disposition of the six bridge structures and the SR 1025 bridge structure.
14. As such, the Department respectfully requests a further continuance in the present matter.
15. The Department proposes that the February 4, 2016 hearing is continued until August 2016.
16. "It is the policy of the Commission to encourage settlements." 52 Pa. Code § 5.231(a).

17. The Department avers that it is more efficient to discuss the disposition and settlement of all seven structures in one sitting opposed to the settlement of both dockets individually.
18. Granting the Department's requested relief will ensure that there is sufficient time for discussion of the disposition of the seven bridge structures.
19. After discussions with counsel for NS, Nicholson Borough, Lackawanna County, Penelec, and the Bureau of Investigation and Enforcement, the Department has received no objections to this request.
20. Upon receipt of the new hearing date, the Department will cooperate with Counsel for NS, Nicholson Borough, Lackawanna County, Penelec, and the Bureau of Investigation and Enforcement to develop mutually agreed upon dates for the submission of written testimony.

WHEREFORE, the Department of Transportation, with no objection from the active parties, respectfully requests that Your Honor grant the relief sought in this Motion.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Nicholas D. Mertens
Assistant Counsel
Commonwealth of Pennsylvania
Department of Transportation
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212
Telephone No. (717) 787-3128
Fax Number (717) 772-2741
Pennsylvania Attorney I.D. Number 313998
nimertens@pa.gov

DATED: December 3, 2015

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bridge Structure where State Route	:	
1025, crosses over a single track of	:	M-2013-2364201
Delaware and Hudson Railway	:	
Company, Inc. (264 293 K) in	:	Electronically Filed
Nicholson Borough, Wyoming	:	
County.	:	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Department's *Motion for Further Continuance of the Hearing Scheduled for February 4, 2016* was served upon the parties listed below, in accordance with the requirements of §1.54, by First-Class mail, postage prepaid, this 3rd day of December, 2015:

Elmer Day
Comcast Cable Communications
One Comcast Way
Duryea, PA 18642

Benjamin C. Dunlap, Jr., Esq.
Nauman Shissler & Hall
200 North Third Street
18th Floor, P.O. Box 840
Harrisburg, PA 17108

Colonel Marcus Brown, Acting Commissioner
Pennsylvania State Police
3rd Floor Department Headquarters
1800 Elmerton Avenue
Harrisburg, PA 17110

Tori L. Giesler, Esq.
PENELEC
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001

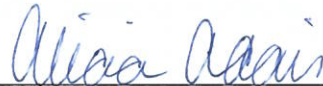
Joe STEC
Frontier Communications Solutions
100 CTE Drive
Dallas, PA 18612

Anthony P. Litwin, Esq.
Nicholson Borough
24 East Tioga Street
Tunkhannock, PA 18657

Adam D. Young, Esq.
PA PUC Bureau of Investigation &
Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

Wesley Carpenter
Sprint Communications Company, LP
Box 113
484 Williamsport Pike
Marlesburg, WV 25404

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Alicia Adair, Legal Assistant to
Nicholas D. Mertens
Assistant Counsel
Commonwealth of Pennsylvania
Department of Transportation
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212
Telephone No. (717) 787-3128

DATED: December 3, 2015