



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

December 28, 2015

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

RE: **Docket No. C-2015-2513130**

Dear Secretary Chiavetta:

Enclosed for filing please find the Department's *Reply to New Matter*, 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 black ink, appearing to read "Nick 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
Louis Romano, District Railroad Coordinator, District 11-0

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BOROUGH OF ELLWOOD CITY	:	
<i>Complainant</i>	:	Complain Docket
	:	No: C-2015-2513130
v.	:	
	:	
BUFFALO & PITTSBURGH	:	Electronically Filed
RAILROAD INC.,	:	
LAWRENCE COUNTY,	:	
PENNSYLVANIA DEPARTMENT	:	
OF TRANSPORTATION	:	
<i>Respondents</i>	:	

REPLY TO NEW MATTER

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation (“Department”), by and through its counsel, Nicholas D. Mertens, Assistant Counsel, and in response to the Answer and New Matter filed, in the above captioned matter, by Buffalo and Pittsburgh Railroad, Inc. (“B&P”), before the Pennsylvania Public Utility Commission (“Commission”) respectfully files the within Reply to New Matter and states as follows:

6. Admitted.
7. The Department is without knowledge or information sufficient to form a belief as to the allegations of fact or law contained in Paragraph Seven (7) of B&P’s Answer and New Matter. As such, the allegations therein are denied and strict proof is demanded.
8. The Department is without knowledge or information sufficient to form a belief as to the allegations of fact or law contained in Paragraph Eight (8) of B&P’s Answer and New Matter. As such, the allegations therein are denied and strict proof is demanded.
9. Paragraph Nine (9) contains assertions as to the authority of the Commission’s cost allocation jurisdiction and thus is a legal conclusion to which no response is required.
10. Paragraph Ten (10) is a prayer for relief to which no response is warranted.

11. Paragraph Eleven (11) contains assertions as to the Commission's jurisdiction and the legal sufficiency of the Borough of Ellwood City's Complaint and thus is a legal conclusion to which no response is required.
12. Denied. Strict proof is demanded.
13. Admitted.

WHEREFORE, the Department of Transportation respectfully requests that the Public Utility Commission consider the within Reply to New Matter and that this matter be consolidated with Commission Docket No. C-2015-2513384.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Nicholas Mertens
Assistant Counsel
Commonwealth of Pennsylvania
Department of Transportation
Office of Chief Counsel
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DATED: December 28, 2015

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BOROUGH OF ELLWOOD CITY	:	
<i>Complainant</i>	:	Complain Docket
	:	No: C-2015-2513130
v.	:	
	:	
BUFFALO & PITTSBURGH	:	Electronically Filed
RAILROAD INC.,	:	
LAWRENCE COUNTY,	:	
PENNSYLVANIA DEPARTMENT	:	
OF TRANSPORTATION	:	
<i>Respondents</i>	:	

VERIFICATION

I, Cheryl Moon-Sirianni, P.E., Assistant District Executive, Commonwealth of Pennsylvania, Department of Transportation, in the foregoing document, make the following statement subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authority, and do state that as the Assistant District Executive for the Commonwealth of Pennsylvania, Department of Transportation, I am authorized to make this statement on behalf of the Commonwealth of Pennsylvania, Department of Transportation, and that the facts set forth in the foregoing document are true and correct to the best of my information, knowledge, and belief.

DATED: Dec 28, 2015



Cheryl Moon-Sirianni, P.E.
Assistant District Executive
Engineering District 11-0

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BOROUGH OF ELLWOOD CITY	:	
<i>Complainant</i>	:	Complaint Docket
	:	No: C-2015-2513130
v.	:	
	:	
BUFFALO & PITTSBURGH	:	Electronically Filed
RAILROAD INC.,	:	
LAWRENCE COUNTY,	:	
PENNSYLVANIA DEPARTMENT	:	
OF TRANSPORTATION	:	
<i>Respondents</i>	:	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Department's *Reply to New Matter* was served upon the parties listed below, in accordance with the requirements of §1.54, by First-Class mail, postage prepaid, this 28th day of December, 2015:

Edward Leymarie, Jr., Esquire
Leymarie Clark Long P.C.
423 Sixth Street
Ellwood City, PA 16117

Tom Leslie, Solicitor
Lawrence County
430 Court Street
New Castle, PA 16101

Eric M. Hocky, Esq.
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103

William V. Gentilman, Property Manager
Buffalo & Pittsburgh Railroad, Inc.
P.O. Box 336
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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



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DATED: December 28, 2015