



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

July 18, 2016

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 August 16, 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 black ink, appearing to read "Nicholas D. Mertens".

Nicholas D. Mertens  
Assistant Counsel

Enclosure

220/NDM:igl

cc: David A. Salapa, Administrative Law Judge  
Parties of Record  
Mark J. Chappell, P.E., Chief, Utilities and Right-of-Way Section  
Sarah J. Fenton, 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 Delaware	:	M-2013-2364201
and Hudson Railway Company, Inc. (264	:	
293 K) in Nicholson Borough, Wyoming	:	<b>Electronically Filed</b>
County.	:	

**MOTION FOR FURTHER CONTINUANCE OF THE  
HEARING SCHEDULED FOR AUGUST 16, 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.
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 as NS was in negotiations to acquire the subject rail line from D&H.
5. The Petition was granted by ALJ David A. Salapa on March 23, 2015.

6. The initial cost allocation Hearing was scheduled for February 20, 2015; after various continuances, the Hearing is presently scheduled for August 16, 2016.
7. 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 (6) highway-rail crossing structures owned and operated by D&H in both Susquehanna and Lackawanna Counties.
8. The Commission ordered the Department to provide bridge inspection reports and in-depth load rating analysis for the six (6) bridge structures.
9. SR 1025 is located on the same rail line as the six (6) structures involved in Docket No. I-2015-2472242.
10. On or about September 19, 2015, the Norfolk Southern Corporation acquired the subject line.
11. On December 3, 2015, the undersigned Counsel for the Department submitted a Motion for Further Continuance in the present matter to allow for sufficient time to finalize the required bridge inspection reports and in-depth load rating analysis, for Docket No. I-2015-2472242.
12. The Department's Motion was granted and the scheduled hearing was rescheduled.
13. The bridge inspection reports and in-depth load rating analysis have been finalized and were sent to Counsel for NS in March 2016.
14. The Department and NS are presently engaged in discussions to resolve the maintenance responsibilities and final cost allocation of the seven (7) bridge structures involved in the present matter and Docket No. I-2015-2472242.
15. As such, the Department respectfully requests a further continuance in the present matter.

16. The Department proposes that the August 16, 2016 Hearing is continued six (6) months to allow the interested parties to develop a comprehensive settlement of all remaining issues.
17. "It is the policy of the Commission to encourage settlements." 52 Pa. Code § 5.231(a).
18. The Department avers that it is more efficient to discuss the disposition and settlement of all seven (7) structures in one sitting opposed to the settlement of both dockets individually.
19. Granting the Department's requested relief will ensure that there is sufficient time for the interested parties to finalize a settlement regarding the seven (7) bridge structures.
20. The Department avers that the subject bridge is posted for 28 tons (32 tons for combination vehicles) and currently presents no danger to the traveling public.
21. After discussions with counsel for NS, Nicholson Borough, Wyoming County, FirstEnergy (Penelec), and the Bureau of Investigation and Enforcement, the Department has received no objections to the present Motion.

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

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION



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Department of Transportation  
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DATED: July 18, 2016

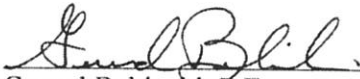
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**VERIFICATION**

I, Gerard Babinski, P.E., District Bridge Engineer, 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 District Bridge Engineer 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: 7/18/2016

  
Gerard Babinski, P.E.  
District Bridge Engineer  
Engineering District 4-0

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**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 August 16, 2016* was served upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54, by First-Class mail, postage prepaid, this 18<sup>th</sup> day of July, 2016:

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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION



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