

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Harmar Township

v.

Norfolk Southern Railway Company

C-20030526

DOCKETED

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FOLDER

PREHEARING ORDER

An initial hearing in this case is scheduled for Thursday, January 29, 2004 at 10:00 a.m., in an 11th Floor Hearing Room, State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222. Accordingly, the parties are hereby directed to comply with the following requirements:

1. You must serve me directly with a copy of any document that you file in this proceeding at the time of filing. If you send me 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.

2. A request for a change of the scheduled hearing date must be submitted in writing no later than five (5) days prior to the hearing. 52 Pa. Code §1.15(b). Requests for changes of initial hearings must be sent to the undersigned Administrative Law Judge, 1103 Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222. Only the undersigned Administrative Law Judge or OALJ Scheduling Staff may grant a request for a change of an initial hearing. Such changes are granted only in rare situations where sufficient cause exists. Requests for changes of subsequent hearings, if any, should also be served directly on me.

3. YOU MAY LOSE THIS CASE, IF YOU DO NOT TAKE PART IN THIS HEARING AND PRESENT EVIDENCE ON THE ISSUES RAISED.

4. THIS HEARING IS A FORMAL PROCEEDING AND WILL BE CONDUCTED IN ACCORDANCE WITH THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE.

5. Pursuant to 52 Pa. Code §§1.21 & 1.22, you may represent yourself, if you are an individual, or you may have an attorney represent you. However, if you are a partnership, corporation, trust, association or governmental agency or subdivision, you must have an attorney represent you in this proceeding. Unless you are an attorney, you may not represent someone else.

6. The Complainant bears the burden of proof in this proceeding and must show by a preponderance of the evidence that the Respondent has violated the Public Utility Code or a regulation or an Order of this Commission so that the Complainant is entitled to the relief requested in the complaint.

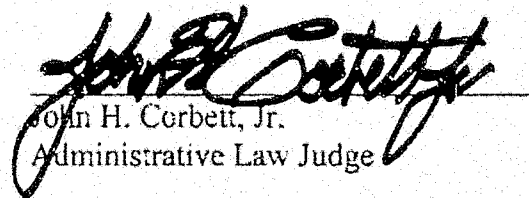
7. If you intend to subpoena witnesses for the hearing, you should review the procedures established in 52 Pa. Code §5.421. You must submit your written application to me sufficiently in advance of the hearing date so the other parties will have the required ten (10) days' notice to answer or object, and so you will have enough time to receive the subpoena and serve it.

8. Any party may conduct discovery to learn the factual basis of another party's position in this case. However, 52 Pa. Code §5.331(b) provides, in relevant part, that "[a] participant shall endeavor to initiate discovery as early in the proceedings as reasonably possible." Additionally, 52 Pa. Code §5.322 provides, in relevant part, that "participants are encouraged to exchange information on an informal basis." All parties are urged to cooperate in informal information exchanges and in conducting discovery. Cooperation is preferable to

disagreements, which require my participation to resolve. There are limitations on discovery (52 Pa. Code §5.361) and sanctions for abuse of the discovery process (52 Pa. Code §§5.371 & 5.372).

9. Commission policy is to encourage settlements. 52 Pa. Code §5.231(a). Therefore, you are urged to discuss informally between yourselves the possible settlement of this case at least one week before the hearing. If you are unable to settle this case, you may still resolve as many questions or issues as possible during your informal discussion.

Date: November 4, 2003


John H. Corbett, Jr.
Administrative Law Judge



THOMAS E. DONATELLI, P.E.
DIRECTOR

DEPARTMENT OF PUBLIC WORKS

County of Allegheny

501 COUNTY OFFICE BUILDING
542 FORBES AVENUE
PITTSBURGH, PENNSYLVANIA 15209-2904
PHONE (412) 350-5902 * FAX (412) 350-5386

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SECRETARY'S BUREAU
03 NOV 24 AM 10:19

November 19, 2003

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

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Dear Mr. McNulty:

RE: HARMAR TOWNSHIP V. NORFOLK SOUTHERN RAILWAY COMPANY
PEDESTRIAN BRIDGE C-20030526

We received a notice dated October 29, 2003 that a hearing is scheduled for January 29, 2004 for the above subject location. Please be advised that Allegheny County has no record of being responsible for any facilities in the subject crossing area. We do not plan to send a representative to the hearing. We have no objection to any improvements proposed, as long as no costs are assigned to Allegheny County. If costs are assigned to Allegheny County, we request an additional hearing be held.

Please call David L. Wright, P.E., Project Manager, at (412) 350-6645 if you have any questions.

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FEB 06 2004

Yours truly,

Thomas E. Donatelli, P.E.
Director

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cc: Howard Louik, Esq., Law Dept.
Don Killmeyer, P.E.
Bernie Rossman, P.E.
John Skanderson
Dave Wright, P.E.

RJP

