

CAPTION SHEET

CASE MANAGEMENT SYSTEM

1. REPORT DATE: 00/00/00	:	
2. BUREAU: TSR	:	
3. SECTION(S):	:	
5. APPROVED BY:	:	4. PUBLIC MEETING DATE:
DIRECTOR:	:	00/00/00
SUPERVISOR:	:	
6. PERSON IN CHARGE:	:	7. DATE FILED: 01/13/06
8. DOCKET NO: C-20065792	:	9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: BUKKY, GARY

RESPONDENT/APPLICANT: WESTERN NEW YORK & PA RAILROAD

COMP/APP COUNTY: ERIE

UTILITY CODE: 500059

ALLEGATION OR SUBJECT

COMPLAINANT STATES THAT THE RAILROAD TRACK CROSSING ON CENTER STREET IN CORRY IS BEING VERY POORLY MAINTAINED. THE ENTIRE CROSSING NEEDS TO BE REPAIRED AS IT IS BECOMING UNSAFE TO DRIVE ACROSS. HE WANTS THE COMMISSION TO MAKE THE COMPANY BE RESPONSIBLE FOR MAINTENANCE AND TO CORRECT THE PROBLEM AND CONTINUE TO MAINTAIN THE CROSSING. ADDITIONAL RESPONDENTS ARE: PENNDOT, ERIE COUNTY - SOLICITOR AND ERIE COUNTY/CORRY CITY - SOLICITOR.

**DOCKETED**  
JAN 23 2006

DOCUMENT  
FOLDER

COMPLAINT

0500 2700

BEFORE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

For Commission Use Only:  
 COMPLAINT DOCKET NO. C-20065792 REF. # \_\_\_\_\_ UTILITY CODE 500059  
 VS. \_\_\_\_\_

PLEASE PRINT:

1. YOUR NAME, ADDRESS AND TELEPHONE NUMBER

Name Gary Bukky  
 Street 21272 Lindsey Hollow Rd.  
 City Corry State PA Zip 16407  
 County Erie Home Telephone-Area Code (814) 765-1543  
 Work Telephone-Area Code ( ) \_\_\_\_\_

2. COMPANY YOU ARE COMPLAINING ABOUT

Name Western New York and Pennsylvania  
69 S Dow St Falconer NY ~~14733~~ (716) 665-5995

3. WHAT IS YOUR COMPLAINT (DESCRIBE PROBLEM)

The railroad track crossing on Center  
Street in Corry, PA is being very poorly  
maintained. The entire crossing needs  
to be repaired as it is becoming  
unsafe to drive across.

PA PUBLIC UTILITY COMMISSION

JAN 17 2006

RECEIVED  
 2006 JAN 13 AM 9:00  
 SECRETARY'S BUREAU

For Commission Use Only:  
 DATE FILED \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ BUREAU OF TRANSPORTATION & SAFETY  
 RAIL SAFETY DIVISION BUREAU \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(If You Need More Space Attach Paper)

4. WHAT DO YOU WANT US TO DO?

Have the company responsible for  
maintenance correct the problem  
and then continue to maintain it.

\_\_\_\_\_  
\_\_\_\_\_

(If You Need More Space Attach Paper)

YOU MUST SIGN HERE

Gary Benson  
Signature of complainant or  
attorney for corporate complainant

PUT TODAY'S DATE HERE

1-10-06  
Today's Date

YOU DO NOT NEED A LAWYER If you DO have a lawyer PLEASE PRINT the lawyer's name, address  
phone number below.

Lawyer's Name \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone Number-Area Code ( ) \_\_\_\_\_

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: JANUARY 24, 2006

GARY BUKKY

Complainant

v.

WESTERN NEW YORK & PA  
RAILROAD

CORRY CITY/SOLICITOR  
ERIE COUNTY/SOLICITOR  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

Respondent

Complaint Docket  
No: C-20065792

DOCUMENT  
FOLDER

DOCKETED  
JAN 23 2006

---

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

---

TO: RESPONDENTS

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the **Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265**, an answer (original and three copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. The date of service is the mailing date as indicated by the date at the top of this Notice. Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

2. If you fail to either satisfy this complaint or to file answer or other responsive pleading within twenty (20) days, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy this complaint you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.

*James J. McNulty*

James J. McNulty  
Secretary

(SEAL)

Certified Mail  
Return Receipt Requested



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

IN REPLY PLEASE  
REFER TO OUR FILE

DATE SERVED: JANUARY 24, 2006

C-20065792

WESTERN NEW YORK & PA RAILROAD  
P O BOX 190-B  
5769 SWEETENERS BOULEVARD  
LAKEVILLE NY 14480-0906

---

CORRY CITY/SOLICITOR  
PAUL J. CARNEY, JR.  
224 MAPLE AVENUE  
CORRY PA 16407

---

PENNDOT  
ATTN: ANDREW GORDEN ESQUIRE  
OFFICE OF CHIEF COUNSEL  
P O BOX 8212  
HARRISBURG PA 17105-8212

---

ERIE COUNTY/SOLICITOR  
2222 WEST GRANDVIEW BLVD.  
ERIE PA 16506

DOCUMENT  
FOLDER

Dear Sir/Madam:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by GARY BUKKY. To defend yourself against the claims stated in the following pages, you must act within twenty (20) days by filing in writing with the Commission, either, personally or through your attorney, your defenses or objections to the claims stated against you. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days.

IF YOU FAIL TO RESPOND WITHIN TWENTY (20) DAYS, THE CASE MAY GO FORWARD IN YOUR ABSENCE AND A JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

CUSTOMER OF A UTILITY

A payment schedule may be prescribed or a termination of utility services may be authorized. You may lose money or property or other rights important to you.

COMPANY/UTILITY

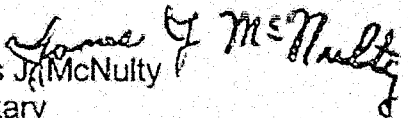
An Administrative Law Judge may revoke or suspend any certificate or permit held by you, or impose a fine, or any other appropriate penalty or remedy authorized by the Public Utility Code. You may lose money or property or other rights important to you.

Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
P.O. Box 186  
Harrisburg, PA 17108  
(800) 692-7375

Very truly yours,

  
James J. McNulty  
Secretary

JIH



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

IN REPLY PLEASE  
REFER TO OUR FILE

January 31, 2006

C-20065792

GARY C FAWVER PE CHIEF  
ROW & UTILITY DIVISION  
PENNDOT BUREAU OF DESIGN  
PO BOX 3362  
HARRISBURG PA 17105-3362

DOCUMENT  
FOLDER

Subject: Crossing where the tracks of the Western New York & PA  
Railroad cross at-grade with Center Street in the City of  
Corry, Erie County.

Dear Mr. Fawver:

This is to advise that a field conference and investigation will be held on February 16, 2006 at 10:00 a.m. The purpose of the meeting is to consider the condition of the at-grade crossings.

Kindly arrange to have your representative meet at the crossing where Center Street crosses the tracks of the railroad in Corry.

Very truly yours,

D. A. Oliver, P.E.  
Rail Safety Division  
Bureau of Transportation and Safety  
717-787-5189

DAO:lg

DOCKETED  
FEB 22 2006

Similar letter list.  
C-20065792

GARY C FAWVER PE CHIEF ✓  
ROW & UTILITY DIVISION  
PENNDOT BUREAU OF DESIGN  
PO BOX 3362  
HARRISBURG PA 17105-3362

✓ ANTHONY N NWOKEDI PE  
PENNDOT DISTRICT 1-0  
255 ELM STREET  
OIL CITY PA 16301

✓ MR GARY BURKKY  
21272 LINDSEY HOLLOW ROAD  
CORY PA 16407

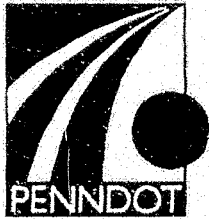
✓ ROBERT W SWAYNE JR  
WESTERN NEW YOUR & PA  
RAILROAD INC  
PO BOX 190-B  
LAKEVILLE NY 14480

✓ FLORINDO FABRIZO  
ERIE COUNTY COURTHOUSE RM 116  
140 WEST 6<sup>TH</sup> STREET  
ERIE PA 16501

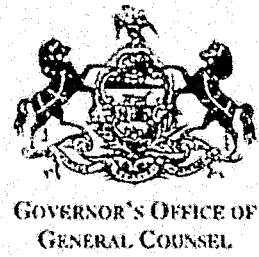
✓ JANICE BUELL CITY CLERK  
MUNICIPAL BUIILDING  
CORY PA 16407

✓ HONORABLE CURTIS G SONNEY  
707 EAST COLUMBUS AVENUE  
CORY PA 16407

✓ 4,6+5 ✓  
✓



COMMONWEALTH OF PENNSYLVANIA  
 DEPARTMENT OF TRANSPORTATION  
 OFFICE OF CHIEF COUNSEL  
 REAL PROPERTY DIVISION  
 POST OFFICE BOX 8212  
 HARRISBURG, PA 17105-8212  
 TELEPHONE: (717) 787-3128  
 FACSIMILE: (717) 772-2741



Friday, February 3, 2006

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

RE: Docket No. C-20065792

ORIGINAL

Vertical stamp: RECEIVED  
 FEB 3 2006  
 PENNSYLVANIA DEPARTMENT OF TRANSPORTATION

Dear Secretary McNulty:

Enclosed for filing please find the original and three (3) copies of the *Department of Transportation's Answer to Complaint* in the above-captioned matter.

I hereby certify that a copy of the Department's Reply has been sent to all parties of record, as indicated on the *Certificate of Service*.

DOCUMENT  
 FOLDER

Very truly yours,

*Gina M. D'Alfonso*

Gina M. D'Alfonso  
 Assistant Counsel in Charge

220/GMD: be  
 Enclosures

cc Parties of Record  
 Gary C. Fawver, P.E., Chief, Utilities and Right-of-Way Section  
 Anthony N. Nwokedi, P.E., Grade Crossing Engineer, District 1-0

29

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

GARY BUKKY  
Complainant

VS.

WESTERN NEW YORK &  
PENNSYLVANIA RAILROAD,  
CITY OF CORRY, ERIE COUNTY  
Commonwealth of Pennsylvania  
Department of Transportation  
Respondents

DOCUMENT  
FOLDER

**DOCKETED**  
FEB 8 2006

Complaint Docket  
No: C-20065792

**RECEIVED**

FEB 3 2006

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

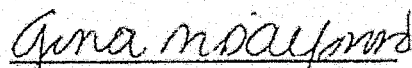
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION'S ANSWER TO COMPLAINT

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation (Department), by and through its counsel, Gina M. D'Alfonso, Assistant Counsel in Charge, in its Answer to Complaint, respectfully represents:

1. It is admitted that Gary Bukky is the Complainant in this matter.
2. It is admitted this is an address for Western New York & Pennsylvania Railroad.
3. It is admitted that Complaint is regarding the condition of the at-grade crossing of Western New York & Pennsylvania Railroad and Center Street in Corry, Erie County.
4. Paragraph 4 is a prayer for relief to which no response is warranted.

WHEREFORE, the Department of Transportation respectfully requests that a field conference be scheduled in this matter.

Respectfully Submitted,



Gina M. D'Alfonso  
Assistant Counsel in Charge  
Office of Chief Counsel  
Keystone Building - 9<sup>th</sup> Floor  
P.O. Box 8212  
Harrisburg, PA 17105-8212  
Telephone No. (717) 787-3128

Date: February 3, 2006





BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

GARY BUKKY	:	
Complainant	:	
	:	Complaint Docket
VS.	:	No: C-20065792
	:	
WESTERN NEW YORK &	:	
PENNSYLVANIA RAILROAD,	:	
CITY OF CORRY, ERIE COUNTY	:	
Commonwealth of Pennsylvania	:	
Department of Transportation	:	
Respondents	:	

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the *Certificate of Service* was served upon the parties below by first-class mail; postage prepaid this day, February 3, 2006:

WESTERN NEW YORK & PENNSYLVANIA RAILROAD  
P.O. BOX 190-B  
5769 SWEETENERS BLVD.  
LAKEVILLE, NY 14480-0906

GARY BUKKY  
21272 LINDSEY HOLLOW ROAD  
CORRY, PA 16407

PAUL J. CARNEY, JR., ESQUIRE  
224 MAPLE AVENUE  
CORRY, PA 16407

Gary Bukky vs. Western New York & Pennsylvania Railroad/PENNDOT  
Complaint Docket No. C-20065792

CERTIFICATE OF SERVICE

OFFICE OF SOLICITOR  
ERIE COUNTY  
2222 WEST GRANDVIEW BLVD  
ERIE, PA 16506

Respectfully submitted,

By: Benita Easter  
Benita Easter, Legal Assistant 1 to  
Gina M. D'Alfonso  
Assistant Counsel in Charge  
Office of Chief Counsel  
P.O. Box 8212  
Harrisburg, PA 17105-8212  
Telephone No.: 717/787-3128

Date: February 3, 2006

RECEIVED

FEB 3 2006

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU



# ORIGINAL

COUNTY EXECUTIVE  
MARK A. DIVECCHIO

COUNTY OF ERIE  
OFFICE OF COUNTY SOLICITOR  
ERIE COUNTY COURT HOUSE  
140 WEST SIXTH STREET  
ERIE, PENNSYLVANIA 16501  
814/451-6232  
TOLL FREE 1/800/352-0026  
TDD 814/451-6237 FAX 814/451-6334

COUNTY SOLICITOR  
WALLACE J. KNOX, II, ESQ.

ASSISTANT SOLICITORS  
MATTHEW J. McLAUGHLIN, ESQ.  
NORMAN A. "BUDDY" STARK, ESQ.  
GEORGE JOSEPH, ESQ.

February 7, 2006

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

RE: Docket No. C-20065792

Dear Secretary McNulty:

Enclosed please find my Notice of Appearance and the original and three (3) copies of the Answer and New Matter of County of Erie in the above-captioned matter.

I hereby certify that a copy of the Answer and New Matter has been sent to all parties of record in this matter, in accordance with the Certificate of Service.

Should you have any questions regarding this matter, please do not hesitate to call or contact me at the telephone number for my private office, 814-833-2222 or by electronic mail at [gjoseph@quinnfirm.com](mailto:gjoseph@quinnfirm.com). Also, please direct written communication to me at my private office address, at 2222 West Grandview Blvd, Erie, PA 16506. Facsimile communication may be sent at 814-833-6753. Thank you.

Very truly yours,

George Joseph, Esquire  
Pa. L.D. No. 36606  
Assistant County Solicitor

DOCUMENT  
FOLDER

CC: All Parties of Record  
Prothonotary, Pennsylvania Public Utility Commission  
Document #283199, v1

RECEIVED  
2006 FEB 10 AM 8:59  
SECRETARY'S BUREAU

COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of:

Complaint Docket No. C-20065792

Utility Code 50059

**NOTICE OF APPEARANCE**

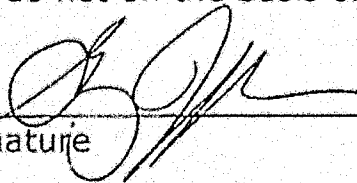
Please enter my appearance in the above-designated matter on behalf of the County of Erie I am authorized to accept service on behalf of said participant in this matter.

[CHECK ONE]

On the basis of this notice, I request a copy of each document hereafter issued by the Commission in this matter.

I am already receiving or have access to a copy of each document issued by the Commission in this matter (alone, or in a consolidated proceeding) and do not on the basis of this notice require an additional copy.

Signature



George Joseph  
Name (Printed)

2222 West Grandview Blvd.  
P.O. address

Erie, PA 16506  
City, state and zip code

814-833-2222  
Telephone Number  
(including area code)

Document #282798, v1

**DOCKETED**  
FEB 15 2006

**DOCUMENT  
FOLDER**

SECRETARY'S BUREAU

2006 FEB 10 4:18:59

REC 277 43

COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of:

Complaint Docket No. C-20065792

Utility Code 500059

RECEIVED  
2006 FEB 10 AM 8:59  
SECRETARY'S BUREAU

**ANSWER AND NEW MATTER OF COUNTY OF ERIE**

The Respondent, County of Erie, by and through the Office of County Solicitor and George Joseph, Esq., Assistant County Solicitor, hereby answers the Complaint, in accordance with the provisions of 52 Pa. Code §5.61, as follows:

1. The allegations of Paragraph 1 are admitted.
2. In answer to the allegations of Paragraph 2, this Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 for the reason that the allegation is directed to another respondent, the same is, therefore, specifically denied and strict proof thereof is demanded at the time of hearing in this matter.
3. The allegations of Paragraph 3 are denied as stated. The allegation that the railroad crossing on Center Street in the City of Corry is "very poorly maintained" is a statement of opinion and not of fact. The same is therefore denied. Likewise, the allegation that the railroad crossing on Center Street in the City of Corry is "becoming unsafe to drive across" is equally a statement of opinion and not of fact. The same is therefore denied. To the extent that the same is deemed to constitute a statement of fact,

**DOCUMENT  
FOLDER**

**DOCKETED**  
FEB 15 2006

the same is specifically denied and strict proof thereof is demanded at the time of hearing in this matter.

4. The allegations of Paragraph 4 constitute a prayer for relief to which no response is required. To the extent that a response is required, it is believed, and therefore averred, that the allegation relate exclusively to a prayer for relief against the respondent Western New York & Pennsylvania Railroad and not this Respondent. In further answer thereto, it is believed, and therefore averred, that the responsibility for the repair and maintenance of the railroad crossing on Center Street in the City of Corry rests with the respondent Western New York & Pennsylvania Railroad, and that no such relief is available against this Respondent, County of Erie.

WHEREFORE, the Respondent, County of Erie, respectfully requests that the complaint against it be denied and dismissed, that the County of Erie not be assessed any percentage of the construction, reconstruction, repair or maintenance costs for the railroad crossing, together with such other relief as the Commission shall deem just and appropriate.

#### NEW MATTER

In further answer to the Complaint to the Pennsylvania Public Utility Commission, the County of Erie asserts New Matter, in accordance with the provisions of 52 Pa. Code §5.62, as follows:

5. It is believed, and therefore averred, that Main Street in the City of Corry is also State Route 426, a state-maintained road.

6. It is believed, and therefore averred, that the railroad crossing that is the subject of the Complaint is located entirely within the city limits of the City of Corry.

7. It is believed, and therefore averred, that the subject railroad crossing is owned, leased and/or controlled by the Western New York & Pennsylvania Railroad, which is responsible for its maintenance and repair.

8. The County of Erie has not undertaken, or assumed any obligation, to repair or maintain the subject railroad crossing and/or Main Street (State Route 426) in the City of Corry at any time, the same being within the exclusive responsibility of the Western New York & Pennsylvania Railroad, the Commonwealth of Pennsylvania Department of Transportation, and/or the City of Corry.

9. The County of Erie has no legal obligation to construct, reconstruct, repair or maintain the subject railroad crossing and/or Main Street (State Route 426) in the City of Corry under any existing federal, state or local law, ordinance or regulation.

10. Allocation of the costs of maintenance or repair to the subject railroad crossing by the Public Utility Commission is intended to be a determination of how those who will benefit from the crossing will incur costs.

11. Assessment of the costs of maintenance or repair to the subject railroad crossing is intended to be made on the basis of who receives the benefits, and is not to be imposed upon those not receiving a benefit.

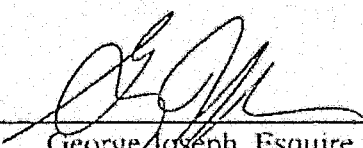
12. The costs of maintenance or repair to the subject railroad crossing should not be assessed, or in the alternative only minimally assessed, to the County of Erie, as the majority of the citizens of the County of Erie not residing in the City of Corry will receive little or no benefit.

WHEREFORE, the Respondent, County of Erie, respectfully requests that the complaint against it be denied and dismissed, that the County of Erie not be assessed any percentage of the construction, reconstruction, repair or maintenance costs for the railroad crossing, together with such other relief as the Commission shall deem just and appropriate.

Respectfully submitted,

COUNTY OF ERIE  
OFFICE OF COUNTY SOLICITOR

By

  
George Joseph, Esquire  
Pa. I.D. No. 36606  
2222 West Grandview Blvd.  
Erie, PA 16506  
(814) 833-2222  
Assistant County Solicitor for the  
Respondent, County of Erie

COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of:

Complaint Docket No. C-20065792

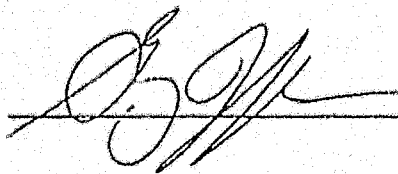
Utility Code 500059

VERIFICATION

I, George Joseph, Esquire, Assistant County Solicitor for County of Erie, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: \_\_\_\_\_

2/7/06



\_\_\_\_\_  
(Signature)

COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of:

Complaint Docket No. C-20065792

Utility Code 500059

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants, listed below, in accordance with the requirements of § 1.54 (relating to service by a participant)

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

Western New York & Pennsylvania Railroad  
P.O. Box 190-B  
5769 Sweeteners Boulevard  
Lakeville, NY 14480-0906

Paul J. Carney, Jr., Solicitor  
City of Corry  
224 Maple Avenue  
Corry, PA 16407

Gary Bukky  
21272 Lindsey Hollow Road  
Corry, PA 16407  
Complainant

Andrew Gorden, Esquire  
Pennsylvania Department of Transportation  
Office of Chief Counsel  
P.O. Box 8212  
Harrisburg, PA 17105-1812

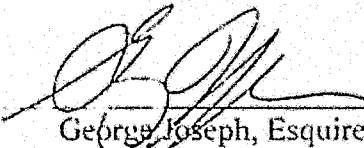
Prothonotary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
North Office Building  
Harrisburg, PA 17105-3265

Dated this 7 day of February, 2006.

Respectfully submitted,

COUNTY OF ERIE  
OFFICE OF COUNTY SOLICITOR

By

  
George Joseph, Esquire  
Assistant County Solicitor for the  
Respondent, County of Erie

REC'D  
2006 FEB 10 AM 8:59  
SECRETARY'S BUREAU



**WESTERN NEW YORK & PENNSYLVANIA RAILROAD, LLC**

69 South Dow Street  
Falconer, NY 14733  
(716) 665-5995 ph. 665-5930 fax  
www.wnypr.com

**ORIGINAL**

Please reply to:  
P.O. Box 190-B  
Lakeville, NY 14480

VIA CERTIFIED MAIL

February 13, 2006

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

**RECEIVED**

FEB 13 2006

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Re: Docket No. C-20065792

**DOCUMENT  
FOLDER**

Dear Mr. McNulty:

Enclosed for filing please find the original and three copies of the answer of the Western New York & Pennsylvania Railroad (WNYP) in the above-captioned matter.

- 1.) It is admitted that Gary Bukky is the Complainant in this matter.
- 2.) It is admitted that 69 South Dow Street, Falconer, New York is WNYP's address. The correct name is Western New York & Pennsylvania Railroad, LLC.
- 3.) It is admitted that the Complaint is regarding the condition of the at-grade crossing of WNYP and Center Street in Corry, Erie County. It is denied that the crossing is being very poorly maintained or that it is becoming unsafe to drive across.
- 4.) Paragraph 4 is a prayer for relief to which no response is warranted.

As further information, WNYP has applied some cold patch to the crossing in question and will continue to do so. More substantial repairs with hot patch will become possible only when the hot mix plants open in the spring.

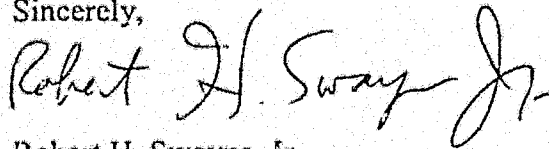
I am authorized to make the foregoing statements on behalf of the Western New York & Pennsylvania Railroad, LLC, and hereby verify that the facts set forth above are true and correct to the best of information, knowledge, and belief.

**DOCKETED**  
FEB 16 2006

178

I hereby certify that a copy of WNYP's Answer has been sent to all parties of record.

Sincerely,



Robert H. Swayne, Jr.  
Chief Engineer—System

RHS/

Cc: Gina M. D'Alfonso  
Asst. Counsel in Charge  
Office of Chief Counsel  
Pennsylvania Dept. of Transportation  
P.O. 8212  
Harrisburg, PA 17105-8212

Office of Solicitor  
Erie County  
2222 West Grandview Blvd.  
Erie, PA 16506

Paul J. Carney, Esq.  
Solicitor  
City of Corry  
224 Maple Avenue  
Corry, PA 16407

Gary Bukky  
21272 Lindsey Hollow Road  
Corry, PA 16407



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

IN REPLY PLEASE  
REFER TO OUR FILE

June 28, 2006

C-20065792

GARY C FAWVER PE CHIEF  
ROW & UTILITY DIVISION  
PENNDOT BUREAU OF DESIGN  
PO BOX 3362  
HARRISBURG PA 17105-3362

In re: Crossing where the tracks of the Western New York & PA  
Railroad cross at grade with Center Street in the City of Corry,  
Erie County.

Dear Mr. Fawver:

This is to advise that a final inspection of the completed work will be held on  
July 14, 2006 at 10:00 a.m.

Kindly arrange to have your representative meet where Center Street intersects  
with the tracks.

Very truly yours,

David A. Oliver, P.E.  
Rail Safety Division  
Bureau of Transportation and Safety  
717-787-3434

DAO:lg

DOCUMENT  
FOLDER

**DOCKETED**  
DEC 21 2006