



# Lackawanna County

COUNTY COMMISSIONERS  
Patrick M. O'Malley • Jerry Notarianni  
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February 9, 2017

PA Public Utility Commission  
ATTN: Rosemary Chiavetta, Secretary  
P.O. Box 3265  
Harrisburg PA 17105

**RE: Schwartz vs. Delaware & Hudson Railway Co.**  
Docket No.: C-2016-2570929


Dear Ms. Chiavetta:

Enclosed herein please find a copy of Lackawanna County's Objections to the Pre-Hearing Conference Call and Pre-Hearing Conference Order of January 18, 2017, with was filed electronically on this date.

I hereby certify that a copy of these documents have been sent to all parties of record as indicated by the enclosed Certificate of Service.

Thank you for your time and attention hereto. If you should have any questions, please feel free to contact me.

Very truly yours,

  
Donald J. Frederickson, Jr., Esquire  
Lackawanna County General Counsel

cc: Parties of Record  
David A. Salapa  
Encls.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

A. EDWARD SCHWARTZ,	:	
Complainant,	:	Docket No. C-2016-2570929
	:	
V.	:	<b>FILED ELECTRONICALLY</b>
	:	
DELAWARE and HUDSON	:	
RAILWAY COMPANY	:	
	:	
Respondent	:	

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**LACKAWANNA COUNTY'S OBJECTION'S TO THE PRE-HEARING CONFERENCE  
AND PRE-HEARING CONFERENCE ORDER OF JANUARY 18, 2017**

NOW COMES the County of Lackawanna and Objects to the Pre-Hearing Conference of February 8, 2017 and Pre-Hearing Conference Order of January 18, 2017, as follows:

1. Lackawanna County is a political subdivision of the Commonwealth of Pennsylvania.
2. Lackawanna County is listed as a party of interest in the above captioned matter presently before the PUC, by virtue of the fact that the bridge and roadway in question are located within the geographic boundary of Lackawanna County.
3. The undersigned counsel entered his appearance on the record as representing Lackawanna County on November 30, 2016, and Lackawanna County filed an Answer and New Matter to the formal complaint filed in this matter.
4. On February 7, 2017, Lackawanna County's counsel received Pre-Hearing Conference Memorandums from the Complainant and the Commonwealth, referencing a Pre-Hearing Conference Order of January 18, 2017.
5. Lackawanna County, nor it's counsel, received a copy of the PUC's Order of January 18, 2017.
6. Upon review of the docket in this matter, Counsel for Lackawanna County discovered that mandatory Call-in Telephone Pre-Hearing Conference was conducted on February 8, 2017.
7. Counsel for Lackawanna County did not receive notice of said telephone conference, and was thus deprived of the ability to participate in the same.
8. Lackawanna County and it's counsel have received NO correspondence from the PUC since the filing of it's entry of appearance on November 30, 2016.

9. Counsel for Lackawanna County has received numerous pleadings and correspondence from the parties to this matter, but not from the PUC, neither electronically or via mail.

10. Lackawanna County Objects to any agreements reached during the telephone Pre-Hearing Conference of February 8, 2017, as it was not provided notice of the same as was held in violation of Lackawanna County's due process rights.

11. Lackawanna County Objects to the Pre-Hearing Conference Order of January 18, 2017, as it was not provided with notice of the same, in violation of Lackawanna County's due process rights.

**WHEREFORE**, Lackawanna County requests that the Pre-Hearing Conference Call be conducted with proper notice being provided to ALL parties in interest, and the Pre-Conference Hearing Order of January 18, 2017 be rescinded until ALL parties are afforded an opportunity to participate in the Pre-Hearing Conference Call.

Respectfully submitted,



Donald J. Frederickson, Jr., Esquire  
Lackawanna County General Counsel  
Atty. ID No. 73306  
200 Adams Avenue - 6<sup>th</sup> Floor  
Scranton PA 18503  
(570)451-0600

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

A. EDWARD SCHWARTZ,  
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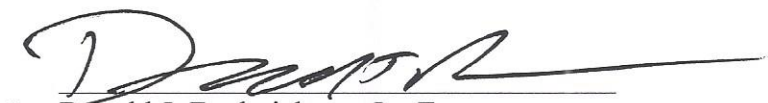
Docket No. C-2016-2570929

**FILED ELECTRONOICALLY**

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**VERIFICATION**

I, Donald J. Frederickson, Jr., Esq., General Counsel for County of Lackawanna, 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 as the acting Chief of Staff, I am authorized to make this statement on behalf of Lackawanna County, and that the facts set forth in the foregoing document are true and correct to the best of my information, knowledge and belief.

  
Donald J. Frederickson, Jr., Esq.,

Dated: 219, 2017.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

A. EDWARD SCHWARTZ,  
Complainant,

V.

DELAWARE and HUDSON  
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Docket No. C-2016-2570929

**FILED ELECTRONICALLY**

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**CERTIFICATE OF SERVICE**

I hereby certify that I served one (1) copy of Lackawanna County's Objections to the Pre-Hearing Conference and Pre-Hearing Conference Order of January 18, 2017 filed on behalf of Lackawanna County to the Complaint of A. Edward Schwatz in the above referenced matter, this date, by depositing the same in the United States Mail, postage pre-paid, in Scranton, Pennsylvania, addressed to:

**Counsel for Complainant**

Lawrence A. Ludwig, Esquire  
238 Vassar Avenue  
Clarks Green PA 18411

**Counsel for PennDOT**

Gina M. D'Alfonso, Esquire  
Office of Chief Counsel  
Pa Dept. of Transportation  
P.O. Box 8212  
Harrisburg PA 17105-8212

**Counsel for Norfolk Southern Railway**

Benjamin C. Dunlap, Jr. Esquire  
200 North Third Street - 18th Floor  
P.O. Box 840  
Harrisburg PA 17108-0840

**Counsel for LaPlume Twp.**

David J. Gromelski, Esquire  
Wright & Reihner, P.C.  
148 Adams Avenue  
Scranton PA 18503

**Administrative Law Judge:**

David A. Salapa  
P.O. Box 3265  
Harrisburg PA 17105-3265

Dated: 2/9, 2017.



Donald J. Frederickson, Jr., Esquire