



Lackawanna County

COUNTY COMMISSIONERS
Patrick M. O'Malley • Jerry Notarianni
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February 13, 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 Objection and Pre-Hearing Conference Memorandum, 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.	:	FILED ELECTRONOICALLY
	:	
DELAWARE and HUDSON	:	
RAILWAY COMPANY	:	
	:	
Respondent	:	

**LACKAWANNA COUNTY'S OBJECTION AND PREHEARING CONFERENCE
MEMORANDUM**

The County of Lackawanna generally objects to the Pre-Hearing Conference Order of January 18, 2017, as the County was not notified of the Pre-Hearing Telephone Conference of February 8, 2017, and thus was unable to participate in said conference and contribute to the discussion regarding the procedure moving forward on this matter, in violation of the County's Due Process Rights and it's rights under the PUC Code.

Notwithstanding it's general objection, Lackawanna County offers this Pre-Hearing Conference Memorandum:

a.) It is requested that the County's sole entry on the service list shall be as follows:

Donald J. Frederickson, Jr., Esq.
General Counsel for Litigation
200 Adams Avenue - Commissioner's Office
Scranton PA 18503
Telephone: (570)451-0600
Fax No.: (570)451-2976
email: Donald_Frederickson@yahoo.com

b.) The County is of the opinion that this is a matter of law that can be decided without testimony.

c.) Lackawanna County does not require any discovery, but joins the Commonwealth's position that in the event any party desires to engage in discovery, that the same be completed no later than two (2) weeks prior to the date for the submission of pre-served written discovery.

d.) None.

e.) The County is generally available for telephonic or in-person hearing, in the event it is determined that a hearing is necessary. It is requested that written testimony, if necessary, be required an submitted three (3) weeks prior to the hearing, and any rebuttal testimony ten (10) days prior to the hearing..

f.) Lackawanna County plans on calling Larry Lukasik, Lackawanna County Director of Roads and Bridges, 200 Adams Avenue, Scranton PA 18503 (570)496-7733 regarding the County's lack of management and ownership of the bridge and roadway in question. Lackawanna County reserves the right to supplement its witness list once the issues have been identified.

g.) Lackawanna County defers to the parties to identify the outstanding issues in this matter.

h.) Lackawanna County will present evidence at the hearing regarding the County's lack of management and ownership of the bridge and railway in question.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Donald J. Frederickson, Jr.", written over a horizontal line.

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

Dated: February 13, 2017.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

A. EDWARD SCHWARTZ,
Complainant,

V.

DELAWARE and HUDSON
RAILWAY COMPANY

Respondent

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Docket No. C-2016-2570929

FILED ELECTRONICALLY

CERTIFICATE OF SERVICE

I hereby certify that I served one (1) copy of Lackawanna County's Objection and Pre-Hearing Conference Memorandum 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

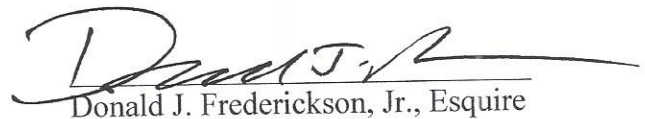
Counsel for LaPlume Twp.

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: 2/13, 2017.


Donald J. Frederickson, Jr., Esquire