



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

September 8, 2017

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Application of the York Railway Company to Determine Fair and Reasonable Maintenance Responsibilities for the Warning Devices at the Broadway Street Crossings (DOT 540 847 W AND DOT 832 109 N) Where York Railway Company and CSX Transportation Cross Said Roadway in the Borough of Hanover, York County, Pennsylvania  
Docket No. A-00123148  
**(Prehearing Conference Memorandum)**

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Prehearing Conference Memorandum of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission in the above-captioned proceeding.

Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,

Bradley R. Gorter, Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
(717) 783-6150  
bgorter@pa.gov

Enclosure

cc: As per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the York Railway :  
Company to Determine Fair and :  
Reasonable Maintenance : Docket No. A-00123148  
Responsibilities for the Warning :  
Devices at the Broadway Street :  
Crossings (DOT 540 847 W AND : Electronically Filed  
DOT 832 109 N) Where York Railway :  
Company and CSX Transportation :  
Cross Said Roadway in the Borough of :  
Hanover, York County, Pennsylvania :

**PREHEARING CONFERENCE MEMORANDUM OF THE  
BUREAU OF INVESTIGATION AND ENFORCEMENT**

The Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement ("I&E") files this Prehearing Conference Memorandum in accordance with the Court's Prehearing Conference Order dated July 5, 2017.

**Service:**

All service on, and communications to, I&E in this proceeding should be addressed to:

Bradley R. Gorter, Esq.  
Prosecutor  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
Phone: (717) 783-6150  
bgorter@pa.gov

**Settlement:**

I&E is open and willing to discuss settlement of this matter. Currently, I&E is unaware of the status of settlement negotiations between York Railway Company

(“York”) and CSX Transportation (“CSX”) regarding the outstanding issues in this matter.

**History of the Proceeding:**

This matter arises from two applications, one filed by York and one filed by CSX. On September 27, 2006, York filed an application seeking to determine maintenance of the warning devices where York and CSX’s tracks cross at-grade Broadway Street (the “subject crossing”) in Hanover, York County. York has removed at least one piece of rail outside the crossing but inside the area controlled by flashing lights and gates and has effectively abandoned its rail line. Prior to the filing of its application, York had been responsible for the maintenance and inspect of the existing crossing signals.

Subsequent to York’s application, CSX took control of the maintenance and inspections for the crossing signals and, via an application to abolish, seeks to abolish York’s rail line and relocate the crossing signals to reflect the abolition of York’s crossing. On March 29, 2017, I&E and Commission staff conducted a field conference at the subject crossing, but the parties were unable to reach an agreement to resolve the issues at the subject crossing.

**Issues to be Addressed:**

- (A) Whether the subject crossing should be abolished and York’s tracks removed;
- (B) Which party or parties will be held responsible for the costs to abolish the crossing;
- (C) Which party or parties will be responsible for the repositioning of the warning signals if the crossing is abolished;

- (D) Which party or parties will be assigned future costs for inspection, maintenance, and repair of the remaining crossing, including grade crossing warning signal maintenance.

**Names and addresses of witnesses to be presented:**

- (A) Andrew B. Reed, P.E.  
Rail Division  
Bureau of Technical Utility Services  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

I&E reserves the right to present additional witnesses as it deems necessary based on the issues identified by the parties.

**Proposed area of testimony for each witness:**

I&E's witness will testify as to the current status of the crossing. I&E's witness will also testify to the future maintenance of the crossing and warning devices. I&E's witness may testify to additional matters based on the issues identified by the parties.

**Proposed litigation schedule:**

Close of Discovery:	October 27
Direct Testimony:	November 17
Rebuttal Testimony:	December 1
Hearings:	Week of December 11
Main Briefs:	20 days after transcripts
Reply Briefs:	20 days after main briefs

**Other matters that may aid in expediting the orderly conduct and disposition of the proceeding, including the following:**

- (A) The exchange and acceptance of service of exhibits proposed to be offered in evidence.
- (B) The obtaining of admissions as to, or stipulations of, facts not remaining in dispute, or the authenticity of documents which might properly shorten the hearing.
- (C) The discovery or production of data or other material.



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Bradley R. Gorter, Esq.  
Prosecutor  
PA Attorney ID No. 312666

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 783-6150

Dated: September 8, 2017

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the York Railway Company :  
to Determine Fair and Reasonable :  
Maintenance Responsibilities for the :  
Warning Devices at the Broadway Street :  
Crossings (DOT 540 847 W and DOT 832 : Docket No. A-00123148  
109 N) where York Railway Company and :  
CSX Transportation Cross said roadway in :  
the Borough of Hanover, York County, :  
Pennsylvania :

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

**Service by First Class Mail:**

Adam Frankel, Esquire  
Genesee & Wyoming, Inc.  
66 Field Point Road  
Greenwich, CT 06830

David W. Borden  
York Railway Company  
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York, PA 17404

Gina M. D'Alfonso, Esquire  
PennDOT  
Office of Chief Counsel  
P. O. Box 8212  
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Gregory J. Vaughn  
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2140 Herr Street  
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York County Commissioners  
28 East Market Street  
York, PA 17401

Borough of Hanover  
44 Frederick Street  
Hanover, PA 17331

Dale Ault  
Borough of Hanover  
44 Frederick Street  
Hanover, MA 17331

Shannon Griest  
Columbia Gas of PA, Inc.  
251 W. Maiden Street  
Washington, PA 15301

David B. Hart, General Manager  
Maryland Midland Railway, Inc.  
York Railway Company  
York Logistics  
Genesse & Wyoming Companies  
2790 West Market Street  
York, PA 17404

Ken Charron  
VP – Commercial Counsel  
Genesse & Wyoming Companies  
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Jacksonville, FL 32224

Comcast of Southeastern Pennsylvania  
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FirstEnergy Corp.  
76 S. Main Street  
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John E. Young, Esquire  
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Philadelphia, PA 19123

Administrative Law Judge  
David A. Salapa  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105



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Bureau of Investigation and Enforcement

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Dated: September 8, 2017