

Tuesday, September 19, 2017

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

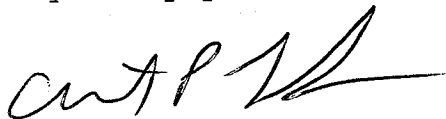
RE: M-2013-2364201 & I-2015-2472242

Dear Judge Salapa:

Enclosed for filing please find Wyoming County's and Nicholson Borough's Prehearing Conference Memorandum. There are no allegations that warrant a verification.

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

Very truly yours,



Anthony P. Litwin
Solicitor for Wyoming County
and Nicholson Borough

Enclosure
cc: Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judge David A. Salapa

| | | |
|---|---|----------------------|
| Bridge Structure where State Route 1025 | : | |
| crosses over a single track of Delaware | : | |
| and Hudson Railway Company, Inc. | : | |
| (264 293 K) in Nicholson Borough, | : | |
| Wyoming County | : | M-2013-2364201 |
| | : | |
| Investigation upon the Commission's | : | |
| own motion to determine the condition | : | |
| and disposition of six (6) existing | : | 1-2015-2472242 |
| structures carrying various highways | : | |
| above the grade of the tracks of the | : | Electronically Filed |
| Canadian Pacific Railroad in Great | : | |
| Bend Township, New Milford Township, | : | |
| Brooklyn Township, Hop Bottom Borough, | : | |
| Lathrop Township, Susquehanna County | : | |
| and Benton Township, Lackawanna County | : | |

**JOINT PREHEARING CONFERENCE MEMORANDUM
OF THE BOROUGH OF NICHOLSON AND THE COUNTY OF WYOMING**

The Borough of Nicholson (“**Borough**”) and the County of Wyoming (“**County**”) (collectively “**Municipalities**”), by and through their counsel, Anthony P. Litwin, pursuant to 52 Pa. Code § 5.222(d) and in compliance with the Prehearing Conference Order of the Administrative Law Judge David A. Salapa, dated August 8, 2017, hereby file this Prehearing Conference Memorandum in the above-captioned matter, and states as follows:

I. SERVICE/COUNSEL

Counsel for the Borough and the County is authorized to accept serve on their behalf in this proceeding:

Anthony P. Litwin, Esq. (PA ID 76218)
24 East Tioga St.
Tunkhannock, PA 18657
Telephone: 570-836-7625
Facsimile: 570-836-7620
E-mail: plitwin@epix.net

II. STATEMENT REGARDING POSSIBLE SETTLEMENT

While mediation was attempted, there have been no settlement discussion to date that included the Municipalities. The Municipalities are willing to participate in settlement discussions. The interests of the County and the Borough are limited to: Bridge Structure where State Route 1025 crosses over a single track of Delaware and Hudson Railway Company, Inc. (264 293 K) in Nicholson Borough, Wyoming County, M-2013-2364201 and not the other (proposed) consolidated matters.

III. PROPOSED PLAN AND SCHEDULE OF DISCOVERY

- a. Answers to written interrogatories served within thirty (30) calendar days of service.
- b. Objections to interrogatories shall be served within ten (10) calendar days of service of the interrogatories.
- c. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within ten (10) days of service of the written objections.
- d. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within ten (10) calendar days of service of such motions.
- e. Responses to requests for document production, entry for inspection, or other purposes must be served within thirty (30) calendar days.
- f. Requests for admissions will be deemed admitted unless answered or denied within thirty (30) days of service.

g. Discovery and all discovery-related pleadings, such as objections, motions, or answers, due on a weekend or a holiday recognized by the Commission may be served on the following business day.

IV. PROPOSED ORDERS WITH RESPECT TO DISCOVERY

Depositions of County or Borough officers, agents and/or witnesses occur in Wyoming County.

The Borough and County may participate in non-record proceedings via telephone.

V. PROPOSED SCHEDULE FOR SUBMISSION OR WRITTEN TESTIMONY, CONDUCTING AN IN-PERSON HEARING, AND SUBMISSION OF BRIEFS.

There is no objection to a March hearing. However, the County and Borough propose that Direct Testimony be due 40 days prior to the hearing date and that Rebuttal Testimony be due 20 days prior to the hearing date.

Main Briefs due within 30 days of the receipt of transcripts and Reply Briefs due 20 days thereafter.

VI. EXPECTED WITNESSES AND SUMMARY OF TESTIMONY

Nicholson Borough expects to call the following witnesses and provide their testimony in written question and answer form:

Mrs. Dawn Bell

Mrs. Bell is President of Nicholson Borough Council and a 45 year resident of Nicholson Borough. Mrs. Bell is expected to testify that: there are no sidewalks on Station Hill Road, Station Hill Road is a state road; Nicholson Borough has never provided any maintenance for the Station Hill Road Bridge; Nicholson Borough has no bridges in its road system; Nicholson Borough has a combined road and maintenance department with one employee and limited physical resources; Nicholson Borough has 767 residents; as of the last census and based on the American Community

Survey data sets, Nicholson Borough is currently considered a low-to moderate-income community; while the bridge is physically located in Nicholson Borough it is on the outskirts of town with only 3 residences and 830 feet of state road north of the bridge; in her experience, the state road serves a more regional purpose with the majority of the users coming from or going to Susquehanna County.

Wyoming County expects to call the following witnesses and provide their testimony in written question and answer form:

Lynnelle M. Welch

Mrs. Welch is the Wyoming County Planner and also serves on the Regional Transportation Committee through the regional planning agency. She is expected to testify that: Station Hill Road is a state road of multijurisdictional significance serving a greater number of property owners in Susquehanna County than Wyoming County: there is approximately 1.5 miles of road in Wyoming County north of the Station Hill Bridge serving 26 properties in Wyoming County; Between intersections with other state roads, there are approximately 2 miles of road served by the bridge in Susquehanna County including commercial stone quarries and gas well pads; there are no significant commercial uses in Wyoming County accessing the road; the County maintains no railroad crossings and is not equipped or staffed to maintain railroad crossings.

Wyoming County and Nicholson Borough reserve their rights to call additional witnesses throughout the course of this proceeding as issues develop. Wyoming County and Nicholson Borough will provide timely notice to the ALJ and the parties of any additional witnesses.

VII. ISSUES AND SUB-ISSUES

A Commission order presently exists for the subject bridge entered June 11, 1951, at Docket A-76276. The said Order recites at page 2 that the bridge is owned and maintained by the

Railroad. Paragraph Number 13 of the said Order requires the Railroad, "at its sole cost and expense, furnish all materials and do all work necessary to maintain the substructure and superstructure of the bridge exclusive of the roadway paving." Responsibility for any repairs or replacement of the subject bridge should be resolved recognizing the Railroad's ownership of the subject bridge and in the context of the 1951 order. Therefore, the Railroad should be exclusively responsible for the repair and/or replacement of the substructure and superstructure of the bridge. In any event, the County and the Borough should have no responsibility for the repair, replacement or maintenance of the subject bridge.

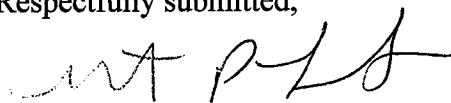
VIII. EXPECTED EVIDENCE

The County and the Borough intend to introduce the above described testimony, maps, and records of PUC proceedings involving the subject bridge as well as other relevant documents or other evidence identified or discovered in preparation for this proceeding.

IX. OTHER MATTERS

The County and the Borough request that hearings and other record proceedings in this matter occur in Northeastern Pennsylvania as the subject bridge is located in Northeastern Pennsylvania and it appears a majority of the parties and potential witnesses reside and work in Northeastern Pennsylvania.

Respectfully submitted,



Dated: September 19, 2017

Anthony P. Litwin, Esq. (PA ID 76218)
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| Brooklyn Township, Hop Bottom Borough, | : | |
| Lathrop Township, Susquehanna County | : | |
| and Benton Township, Lackawanna County | : | |

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the County of Wyoming and Borough of Nicholson's Joint Pre Hearing Conference Memorandum was served upon the parties listed below, in accordance with the requirements of § 1.54 (relating to service by party), by first class mail, postage prepaid, on this 19th day of September, 2017:

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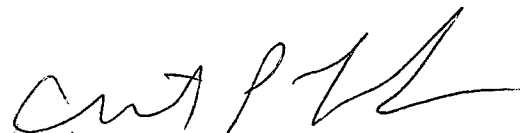
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