



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

September 20, 2017

Via Electronic Filing

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

Re: 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

Investigation upon the Commission's own motion to determine the condition and disposition of six (6) existing structures carrying various highways above the grade of the tracks of the Canadian Pacific Railroad in Great Bend Township, New Milford Township, Brooklyn Township, Hop Bottom Borough, Lathrop Township, Susquehanna County and Benton Township, Lackawanna County

Docket Nos. M-2013-2364201 and I-2015-2472242
(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 proceedings.

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

Sincerely,

A handwritten signature in black ink, appearing to read "B. Gorter", is written over a light blue horizontal line.

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**

Bridge structure where State Route	:	
1025, crosses over a single track of	:	
Delaware and Hudson Railway	:	M-2013-2364201
Company, Inc. (264 293 K) in	:	
Nicholson Borough, Wyoming County	:	
	:	
Investigation upon the Commission's	:	
own Motion to determine the condition	:	
and disposition of six (6) existing	:	
structures carrying various highways	:	
above the grade of the Canadian	:	I-2015-247224
Pacific Railroad in Great Bend	:	
Township, New Milford Township	:	
Brooklyn Township, Hop Bottom	:	
Borough Lathrop Township,	:	Electronically Filed
Susquehanna County and Benton	:	
Township, Lackawanna County (264	:	
293 K) in Nicholson Borough,	:	
Wyoming County	:	

**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 Administrative Law Judge Salapa's Prehearing Conference Order dated August 8, 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. The Office of Administrative Law Judge's Mediation Division conducted a mediation session in these consolidated matters that did not result in the parties reaching even a partial settlement. I&E believes that this matter is unlikely to be resolved via settlement.

History of the Proceeding:

This consolidated matter concerns seven (7) bridges in Wyoming, Susquehanna, and Lackawanna Counties, Pennsylvania. The crossings carry various highways over the tracks of Norfolk Southern ("NS"), the successor in interest to the Canadian Pacific Railroad. Initially, based on inspections performed, the Commission opened the M-Docket proceeding due to the imminent safety concerns regarding the bridge carrying State Route 1025 over NS's tracks. Accordingly, the State Route 1025 crossing was closed until certain repairs and safety measures were completed that allowed the bridge to be reopened to one lane of traffic. The Commission subsequently opened the I-Docket proceeding to address the additional six (6) bridges.

Currently, all seven of the bridges are nearing the end of their useful lives. The Pennsylvania Department of Transportation ("PennDOT") has the crossings listed on its long-term replacement plan; however, some of the bridges are not scheduled to be replaced until 2025 or later. Two of the bridges, the State Route 2017 bridge and the State Route 1018 bridge (the "Priority 1 Bridges", have Priority 1 repairs that must be made in the interest of short-term safety to the traveling public. The repairs necessary for Priority 1 Bridges to protect the public safety include wingwall and parapet replacements, similar to the issues that caused the closing of the State Route 1025 crossing.

Issues to be Addressed:

- (A) Which party or parties shall be responsible for the short-term repair needs at the Priority 1 Bridges and the costs associated with these repairs;
- (B) Which party or parties shall be responsible for ongoing maintenance of all subject bridges prior to rehabilitation and/or replacement;
- (C) Which party or parties will be responsible for the replacement and/or rehabilitation of the subject bridges;
- (D) Which party or parties shall be responsible for the costs to replace and/or rehabilitate the subject bridges;
- (E) Which party or parties will be assigned future costs for inspection, maintenance, and repair of the subject bridges.

Names and addresses of witnesses to be presented:

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

George DiCarlantonio, P.E.
Rail Division
Bureau of Technical Utility Services
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Ron Hull, 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:

Mr. Steiner and Mr. Hull will testify as to the status of all crossings. I&E's witnesses will also testify to the future maintenance of the crossings and the possible replacement and/or rehabilitation of the crossings. I&E's witnesses may testify to additional matters based on the issues identified by the parties.

Proposed litigation schedule:

I&E, PennDOT, and NS have agreed that hearings should be scheduled for March 2018, generally. As such, I&E proposes the following schedule for litigation:

Close of Discovery:	December 1, 2017
Direct Testimony:	January 26, 2018
Rebuttal Testimony:	February 23, 2018
Hearings:	Week of March 5, 2018
Main Briefs:	30 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.



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 20, 2017

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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	:	:	Docket No. M-2013-2364201
	:	:	
Investigation upon the Commission's own motion to determine the condition and disposition of six (6) existing structures carrying various highways above the grade of the tracks of the Canadian Pacific Railroad in Great Bend Township, New Milford Township, Brooklyn Township, Hop Bottom Borough, Lathrop Township, Susquehanna County and Benton Township, Lackawanna County	:	:	Docket No. I-2015-2472242
	:	:	

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:

Hon. David A. Salapa
Administrative Law Judge
Pennsylvania Public Utility Commission
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Harrisburg, PA 17105

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Phone: 717-783-6150

Dated: September 20, 2017