



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

IN REPLY PLEASE
REFER TO OUR FILE
Bp8 2580970

May 18, 2018

VIA ELECTRONIC FILING

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

Re: Joel Royer v. Buffalo & Pittsburgh Railroad, Inc., Pennsylvania
Department of Transportation, County of Indiana, and Borough of Indiana
Docket No. C-2016-2580970
(Prehearing Conference Memo)

Dear Secretary Chiavetta:

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

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

Sincerely,

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

Bradley R. Gorter
Prosecutor
PA Attorney ID No. 312666

Enclosure

cc: As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joel Royer,	:	
	:	
Complainant	:	Docket No. C-2016-2580970
	:	
v.	:	
	:	Electronically Filed
Buffalo & Pittsburgh Railroad, Inc.,	:	
Pennsylvania Department of Transportation,	:	
County of Indiana, Borough of Indiana,	:	
	:	
Respondents	:	

**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 Administrative Law Judge (“ALJ”) David A. Salapa’s Prehearing Conference Order dated May 11, 2018.

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 Joel Royer (“Complainant”) and Buffalo & Pittsburgh Railroad, Inc. (“B&P”), the Pennsylvania Department of Transportation (“PennDOT”), the County of Indiana (“County”), and the Borough of Indiana (“Borough”).

History of the Proceeding:

On December 20, 2016, Complainant filed with the Commission a formal complaint alleging that the railroad bed at the intersection of Oakland Avenue, Grant Street, and the tracks of B&P has sunk relative to the concrete aprons leading up to the tracks. Complainant alleges that the difference in height is significant enough to render the crossing surface to be unsafe for motor vehicles and causes significant impact to vehicles’ tires. B&P, the County, and PennDOT filed answers to the complaint, and the Commission conducted a field conference with the parties to discuss the issues. During the sight visit, Commission technical staff observed that there may also be an elevation difference between sections of sidewalk on which pedestrians travel through the crossing. The parties were unable to reach a resolution of all issues during this field conference.

During its initial review of this matter, I&E discovered that the Oakland Avenue crossing is also subject to a previous complaint proceeding, docketed at C-2015-2483303.

I&E is unaware of the current status of this related matter, but it believes that the complainant in the matter has passed away. If this complaint is still active, I&E recommends consolidating the two dockets to facilitate resolution of the seemingly related matters.

Because the parties failed to resolve this matter informally, ALJ Salapa scheduled this matter for a telephonic prehearing conference on August 2, 2018, at 10:00 AM. This prehearing conference memorandum is filed pursuant to ALJ Salapa's prehearing conference order issued May 11, 2018.

Issues to be Addressed:

- (A) Whether the subject crossing is safe for the travelling public and the railroad;
- (B) What work, if any, should be done to improve the safety of the crossing;
- (C) Which party or parties should perform any ordered work;
- (D) Which party or parties should bear the cost responsibility for any ordered work; and,
- (E) Whether this matter should be consolidated with the matter docketed at C-2015-2483303.

Names and addresses of witnesses to be presented:

- (A) William Sinick, P.E.
Rail Safety Section
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, the approach roadways, and the sidewalks through the crossing. I&E's witness will also testify to any safety upgrades that may be necessary to ensure the safety of the traveling public and/or the railroad. I&E's witness may testify to additional matters based on the issues identified by the parties.

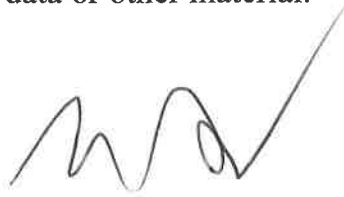
Proposed litigation schedule:

Direct Testimony:	August 10, 2018
Rebuttal Testimony:	August 24, 2018
Hearings:	Week of September 3
Main Briefs:	21 days after transcripts
Reply Briefs:	14 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: July 13, 2018

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joel Royer,

Complainant

v.

Buffalo & Pittsburgh Railroad, Inc.,
Pennsylvania Department of
Transportation, County of Indiana, and
Borough of Indiana,
Respondents

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Docket No. C-2016-2580970

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:

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Indiana County Solicitor
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Indiana, PA 15701

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

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



Bradley R. Gorter
Prosecutor
PA Attorney ID No. 312666
Bureau of Investigation and Enforcement

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P.O. Box 3265
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Dated: July 13, 2018