

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joel Royer	:	
	:	
v.	:	C-2016-2580970
	:	
Buffalo & Pittsburgh Railroad, Inc.	:	
Pennsylvania Department of Transportation	:	
Indiana Borough and Indiana County	:	

INITIAL PREHEARING CONFERENCE MEMORANDA

Indiana Borough by and through its undersigned counsel, Neva L. Stotler, Esquire and Cafardi Ferguson Wyrick Weis + Stotler llc files the following Initial Prehearing Conference Memoranda consistent with the Prehearing Conference Order of May 11, 2018:

a. The following party shall be on the service list for Indiana Borough: Neva L. Stotler, Esquire, Cafardi Ferguson Wyrick Weis + Stotler llc, 2605 Nicholson Road, Suite 2201, Sewickley, PA 15143; (412) 515-8900; Fax: (412) 515-8901; and nstotler@cfwws.com.

b. There have been no settlement discussions concerning the Borough. The Borough has no ownership, maintenance or control of the subject area.

c. The Borough requires only 30 days for discovery and can exchange documents with the parties within 15 days of the Initial Prehearing Conference. The Borough will likely find the proposed schedule of other parties acceptable.

d. There is no need for other orders with respect to discovery.

e. The Borough anticipates presenting only the testimony of Mr. Fairman, and will otherwise comply with the litigation schedule presented by the Commonwealth and the Buffalo & Pittsburgh Railroad, Inc. The Borough requests 30 days following production of the hearing transcript for the submission of post hearing briefs.

f. David Fairman, Director of Public Works. 8 North 8th Street, Indiana Borough, Pennsylvania. Mr. Fairman will testify as to the custody, control and maintenance of the area subject to Royer's complaint. He will testify as to the conditions observed at the subject location in the Borough. He will refer to the Indiana County Tax Map and the Borough of Indiana Map in his testimony.

g. **Issue:** Whether the Borough is a proper party to this action.

Sub-Issue: Whether the Borough owns, maintains, or controls the subject crossings.

Suggested Answers: No.

Statement of the Position of the Party: The crossings at Oakland Avenue and Grant Street are located within the Commonwealth of Pennsylvania right of way and are railroad owned or maintained or state owned or maintained and are not crossings within the Borough right of way or owned or maintained by the Borough of Indiana.

Issue: Whether the crossings are safe for the traveling public.

Suggested Answer: Yes

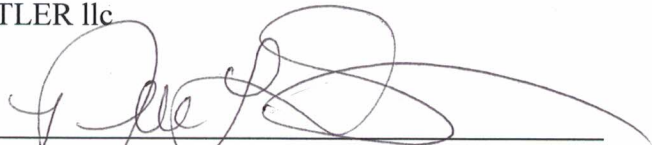
Statement of Position of the Party: Mr. Royer has the burden of proving his complaint; however, the Borough is aware of no evidence that the subject crossings are unsafe.

h. The Borough will present the testimony of David Fairman, County Tax Map and Indiana Borough Map.

Respectfully submitted,

CAFARDI FERGUSON WYRICK WEIS +
STOTLER llc

By: _____



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Counsel for Indiana County

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the following document by U.S. first-class mail, postage prepaid, upon the participants listed below, in accordance with the requirements of Section 1.54 (relating to service by a participant). Copies have also been sent by email to the parties show below with an email address:

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Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
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Harrisburg, PA 17120

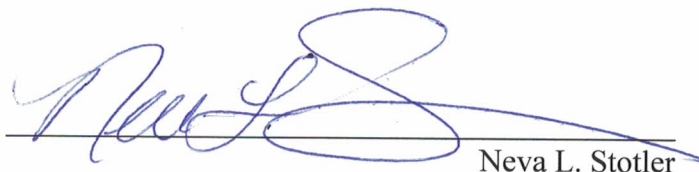
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Neva L. Stotler

July 23, 2018