



FANELLI, EVANS & PATEL, P.C.
- ATTORNEYS -

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JOHN R. KANTNER

March 22, 2019

VIA E-FILE

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Reading Blue Mountain and Northern Railroad v Dept. of Transportation
No. C-2018-3006389

Dear Ms. Chiavetta:

Attached for filing is a Pre-Hearing Memorandum on behalf of Reading Blue Mountain and Northern Railroad Company along with a Certificate of Service evidencing service on all parties with regard to the above matter.

If you have any questions regarding this filing, please feel free to contact me.

Very truly yours,

/s/ John R. Kantner

JOHN R. KANTNER

JRK/rg

Attachments

cc: Jennifer Brown-Sweeney, Esquire
The Honorable Dennis J. Buckley
John J. Brazil
Marylynn Bartoletti
Erik Yoder
(All w/attachments)

**The Necho Allen * No. 1 Mahantongo Street * Pottsville, Pennsylvania 17901
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**BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

Reading Blue Mountain and Northern Railroad	:	
	:	
	:	
	:	Docket No. C-2018-3006389
v.	:	
	:	
Department of Transportation	:	

**READING BLUE MOUNTAIN AND NORTHERN RAILROAD
PRE-HEARING MEMORANDUM**

AND NOW COMES complainant, Reading Blue Mountain and Northern Railroad, by and through their attorneys, Fanelli, Evans & Patel, P.C., and for its pre-hearing memorandum pursuant to Order dated March 13, 2019, states as follows:

I. BACKGROUND

This matter involves the condition of the railroad crossing where State Route 3015, Moosic Road, crosses at grade the single track owned and operated by Complainant Reading Blue Mountain and Northern Railroad ("the Railroad"). The condition and safety of the crossing is adversely affected by significant surface water runoff along the roadway owned and maintained by Department of Transportation ("PennDOT").

A Secretarial Letter issued September 13, 2001 required that PennDOT maintain the highway approaches to this crossing on both the east and west approaches, with the Railroad responsible for maintaining the high-type concrete crossing surface. Despite repeated notification of ongoing problems with the condition of the approaches, PennDOT has completely disregarded its responsibility to correct the drainage issues and make repairs to the asphalt roadway leading up to the crossing. As a result, the condition of the crossing surface has greatly deteriorated.

Despite ongoing efforts by the Railroad to repair the crossing, the continued water run-off renders permanent repairs futile. The Railroad tracks at the crossing now have an observable

"dip", requiring a speed reduction for trains using the track. Further, the standing water at the crossing has caused repeated malfunctions of the crossing signal equipment.

Had PennDOT undertaken repairs and remediation to this situation earlier, as required by the September 13, 2001 Secretarial Letter, the damage to the crossing would have been lessened, and repairs would have been less costly.

II. IDENTIFIED ISSUES

A. Whether PennDOT has complied with the maintenance responsibilities set forth in the September 13, 2001 Secretarial Letter, which required that PennDOT maintain the roadway approaches up the high concrete railroad crossing surface.

B. Whether the high concrete railroad crossing surface has been damaged by the condition of the roadway approaches, particularly the uncontrolled surface water drainage and deteriorating asphalt paving of the roadway.

C. Whether the cost and expense of repairs to the high concrete railroad crossing should be borne by PennDOT, and not by the Railroad, due to the continuing failure of PennDOT to address its required maintenance obligations.

D. Scheduling of the repairs and remediations.

III. WITNESSES AND PROPOSED AREA OF TESTIMONY

A. Erik Yoder, Asst. Vice President of Real Estate, formerly VP of Maintenance of Way, Reading Blue Mountain and Northern Railroad, will testify to the past and present condition of the concrete railroad crossing, personal observations of the surface water run-off and standing water and, deteriorating condition of the roadway approached to the crossing. He will also testify to efforts to work with PennDOT to arrange for a permanent solution to the cause of the damage.

B. Matthew Johnson, Vice President Asset Management, Reading Blue Mountain and Northern Railroad, will testify to the past and present condition of the concrete railroad crossing, personal observations of the surface water run-off and standing water and, deteriorating condition of the roadway approached to the crossing. He will also testify to efforts to work with PennDOT to arrange for a permanent solution to the cause of the damage.

C. Ronald J. Hull, P.E., Rail Safety Division, Bureau of Transportation and Safety, Pennsylvania PUC will testify to his familiarity with the condition of the roadway approaches and the concrete railroad crossing, including his personal observations at a field investigation at the crossing in 2017 and again on December 19, 2018.

D. Daniel Leonard, Grade Crossing Engineer, Central Office, PennDOT, will testify to personal knowledge of the condition of the roadway approaches, the lack of appropriate surface water drainage, and observations and discussions at the December 19, 2018 field investigation.

IV. PROPOSED PROCEDURAL SCHEDULE AND DISCOVERY REQUIREMENTS

The Railroad does not believe that additional discovery or informal communication between the parties is necessary. However, the Railroad is willing to enter into discussions with PennDOT on possible resolution of the issues prior to a Hearing, and asks that a Hearing date be continued to provide the Parties this opportunity.

Respectfully Submitted:

FANELLI, EVANS & PATEL, P.C.

/s/ John R. Kantner

By: _____

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**BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

Reading Blue Mountain and
Northern Railroad

v.

Department of Transportation

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Docket No. C-2018-3006389

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a true and correct copy of the foregoing document upon the parties listed below in accordance with the requirements of § 1.54 (relating to service by a party):

Jennifer Brown-Sweeney, Esquire
PA Department Of Transportation
Office of Chief Counsel
Keystone Building 9th Floor
P.O. Box 8212
Harrisburg, PA 17105-8212

John J. Brazil
Lackawanna County Solicitor
200 Adams Avenue
Scranton, PA 18503

The Honorable Dennis J. Buckley
Administrative Law Judge
Pennsylvania Public Utility Commission
400 North Street
2nd Floor West
Harrisburg, PA 17120

Marylynn Bartoletti
Borough of Old Forge
310 South Main Street
Old Forge, PA 18518

Erik Yoder
Reading Blue Mountain & Northern Railroad
1 Railroad Blvd.
P.O. Box 218
Port Clinton, PA 19549

Date: March 22, 2019

/s/ John R. Kantner

By: _____
JOHN R. KANTNER, ESQUIRE