



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

December 16, 2019

VIA ELECTRONIC FILING

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

Re: Municipality of Penn Hills c/o Scott Andrejchak v.
Union Railroad Company, PA Department of Transportation, Allegheny
County, Borough of Verona, City of Pittsburgh, and Bureau of
Investigation and Enforcement
Docket No. C-2019-3013809
I&E Prehearing Conference Memorandum

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Bureau of Investigation and Enforcement's
("I&E") **Prehearing Conference Memorandum** in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate
of Service. If you have any questions, please do not hesitate to contact me.

Sincerely,

Kayla L. Rost
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

KLR/jfm
Enclosure

cc: Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Municipality of Penn Hills c/o Scott Andrejchak,
Complainant

v.

Union Railroad Company, PA Department of
Transportation, Allegheny County, Borough of
Verona, City of Pittsburgh, and Bureau of
Investigation and Enforcement,
Respondent

Docket No. C-2019-3013809

Electronically Filed

**PREHEARING CONFERENCE MEMORANDUM
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

TO ADMINISTRATIVE LAW JUDGE KATRINA L. DUNDERDALE:

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") Katrina L. Dunderdale's Prehearing Conference Order dated November 25, 2019.

I. HISTORY OF THE PROCEEDING

By letter dated October 18, 2019, the Municipality of Penn Hills c/o Scott Andrejchak ("Penn Hills") filed a Formal Complaint alleging that a sewer line on Union Railroad company's property causes severe flooding and that an unsafe building on the property needs to be addressed. Receipt of the Formal Complaint was confirmed by Secretarial Letter dated October 28, 2019.

On November 13, 2019, the Pennsylvania Department of Transportation ("PennDOT") filed its Answer and New Matter. Specifically, PennDOT averred that the

allegations relate to 66 Pa.C.S. § 1501 and that it is not properly a party since the allegations do not relate to a railroad/highway crossing.

On November 14, 2019, Union Railroad Company (“URR”) filed its Answer and New Matter. Specifically, URR denied the allegations set forth in the complaint and, in its New Matter, averred that the inlet of the subject storm water line is not located on URR property and that the subject building is owned by Canadian National Railway Company.

On November 18, 2019, the City of Pittsburgh (“the City”) filed its Answer and New Matter. Specifically, the City averred that it is not properly a party since the subject matter is outside the jurisdiction of the City.

On November 25, 2019, an Initial Call-in Telephonic Pre-Hearing Conference Notice was issued, scheduling a prehearing conference for December 17, 2019 before Administrative Law Judge Katrina Dunderdale. Additionally, on November 25, 2019, a Prehearing Conference Order was issued, instructing the parties to file and serve prehearing memoranda on December 16, 2019.

II. I&E PREHEARING CONFERENCE MEMORANDUM

A. Service

All service on, and communication to, I&E in this proceeding should be addressed to:

By Mail: Kayla L. Rost
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

By Telephone: (717) 787-1888

By E-mail: karost@pa.gov

B. Statement Regarding Settlement

I&E is open and willing to discuss settlement of this matter. Currently, I&E is not aware of the status of settlement negotiations among any parties.

C. Plan and Schedule of Discovery

I&E proposes that discovery be conducted consistent with the Commission's regulation at 52 Pa. Code §§ 5.321, *et seq.*

D. Discovery Orders

I&E does not propose any modifications to the Commission's regulations pertaining to discovery at 52 Pa. Code §§ 5.321, *et seq.*

E. Proposed Litigation Schedule

I&E will work with all the parties to develop a mutually agreeable litigation schedule.

F. Names and Addresses of Witness(es) to be Presented

At this time, I&E does not intend to present a witness should the matter require an evidentiary hearing. However, Richard Rupp, Rail Safety Inspector-Operating Practices, will be available as Commission liaison for consultation and settlement discussions, as well as any discussion which may relate to railroad facilities.

I&E reserves the right to present additional witnesses as it deems necessary based on the issues identified by the parties.

G. Issues to be Addressed

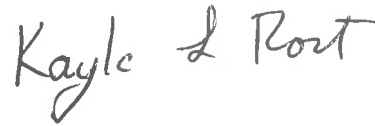
1. Whether URR is the owner or party responsible for the subject storm water line.

2. Whether the condition of the subject storm water line is an unsafe or unreasonable facility condition in violation of 66 Pa.C.S. § 1501.
3. Whether URR is the owner or has control over the subject out-building.
4. Whether the condition of the subject out-building is an unsafe or unreasonable facility condition in violation of 66 Pa.C.S. § 1501.

H. Statement of Evidence to be Presented

I&E does not, at this time, intend to present a witness at an evidentiary hearing. However, Mr. Rupp will be available to participate in any discussion, consultation, or settlement of this matter in order to ensure that any resolution agreed to by the parties will promote public safety and be in the public interest.

Respectfully submitted,



Kayla L. Rost
Prosecutor
PA Attorney ID No. 322768

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
Phone: (717) 787-1888
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Dated: December 16, 2019

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Docket No. C-2019-3013809

Union Railroad Company, PA Department of
Transportation, Allegheny County, Borough of
Verona, City of Pittsburgh, and Bureau of
Investigation and Enforcement,
Respondent

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Prehearing Conference Memorandum** dated December 16, 2019, 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:

Honorable Katrina L. Dunderdale
Administrative Law Judge
Pennsylvania Public Utility Commission
Piatt Place, Suite 220
301 Fifth Avenue
Pittsburgh, PA 15222

Scott Andrejchak
Municipal Manager
Municipality of Penn Hills
102 Duff Road
Pittsburgh, PA 15235

Samuel F. Reynolds, Jr., Esquire
United States Steel Corporation
600 Grant Street
Suite 1500
Pittsburgh, PA 15219
sfreynoldsjr@uss.com

Union Railroad Company
1200 Penn Avenue
Suite 300
Pittsburgh, PA 15222

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