

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

The City of Uniontown, Complainant	:	<i>Electronically filed</i>
	:	
	:	
v.	:	Complaint Docket
	:	
Southwest Pennsylvania Railroad Company, Pennsylvania Department of Transportation, and Fayette County, Respondents.	:	No.: C-2020-3017829
	:	
	:	
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**NOTICE TO PLEAD:**

**Pursuant to 52 Pa. Code §5.101(b), an answer to the Preliminary Objections raised herein shall be filed within 10 days of the date of service of the Preliminary Objections.**

**PRELIMINARY OBJECTIONS OF SOUTHWEST PENNSYLVANIA RAILROAD  
COMPANY TO COMPLAINT OF THE CITY OF UNIONTOWN**

Pursuant to 52 Pa. Code §5.101, Southwest Pennsylvania Railroad Company (“SWP”) hereby preliminarily objects to the Complaint filed by the City of Uniontown (“Uniontown”), and in support thereof states as follows:

1. On or about February 5, 2020, Uniontown filed a formal complaint to commence this proceeding.
2. The Complaint seeks relief under 66 Pa.C.S.A. §2702 for the abolition of what Uniontown characterizes as a “crossing,” that being railroad tracks that run together with Beeson Avenue in Uniontown, and the removal of the tracks.
3. In its Answer being filed contemporaneously with this Motion, SWP disputes whether the railroad tracks that run together with Beeson Avenue in Uniontown are part of a crossing subject to the Commission’s jurisdiction under 66 Pa.C.S.A. §2702
4. Pursuant to 52 Pa. Code §3.361, a complaint under Section 2702 is required to name and serve as parties respondent “*public utilities*, owners of the railroad right-of-way *and*

municipal corporations concerned *and*, if applicable, the Department of Transportation.”  
(Emphasis added,)

5. The Complaint, ¶3, named only SWP as respondent.


6. By letter dated February 6, 2020, the Commission sent out a notice of the filing of the Complaint in which it added Fayette County (the “County”) and the Pennsylvania Department of Transportation (“PennDOT”) as additional respondents.

7. Neither Uniontown nor the Commission identified the public utilities located under Beeson Avenue and within SWP’s right of way property, or included them as additional respondents.

8. Since the concerned public utilities have not been named or served, the Complaint is legally insufficient and further has not been properly served.

WHEREFORE, Southwest Pennsylvania Railroad Company requests that, if the insufficiencies in the Complaint are not cured within ten (10) days, the Commission dismiss the Complaint.

Respectfully submitted,

  
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Attorneys for  
Southwest Pennsylvania Railroad Company

Dated: February 26, 2020

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26th day of February, 2020, a true and correct copy of the foregoing Preliminary Objections was served on the parties shown below by U.S. first class mail, postage prepaid. Copies were also served by email.

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Dated: February 26, 2020

  
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Eric M. Hocky