

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

City of Uniontown,	:	
Complainant,	:	Complaint Docket
v.	:	
	:	Docket No. C-2020-3017829
Southwest Pennsylvania Railroad Company,	:	
Pennsylvania Department of Transportation,	:	
and Fayette County,	:	
Respondents.	:	

REPLY TO NEW MATTER

AND NOW comes, the City of Uniontown (the “City”), by and through its attorneys, and files this Reply to New Matter in response to the New Matter raised by the Southwest Pennsylvania Railroad (“SWPRR”) in its Answer and states as follows:

1. The averments made in Paragraph 46 of SWPRR’s Complaint are neither admitted nor denied. Strict proof of the same is demanded.
2. The averments made in Paragraph 47 of SWPRR’s Complaint are neither admitted nor denied. Strict proof of the same is demanded.
3. The averments made in Paragraph 48 of SWPRR’s Complaint are neither admitted nor denied. Strict proof of the same is demanded.
4. The averments made in Paragraph 49 of SWPRR’s Complaint are neither admitted nor denied. Strict proof of the same is demanded. By way of further answer, if there are no instruments of record giving the City any title to the area of the alleged railroad right of way, Pennsylvania law provides the City with various rights and interests related thereto.

5. The averments made in Paragraph 50 of SWPRR's Complaint are neither admitted nor denied. Strict proof of the same is demanded. By way of further answer, if there are no instruments of record giving the City any right to pave the portion of Beeson Avenue that occupies the alleged railroad right of way, Pennsylvania law provides the City with various rights and interests related thereto.

6. The averments made in Paragraph 51 of SWPRR's Complaint are neither admitted nor denied. Strict proof of the same is demanded. By way of further answer, the City is not in a position to know what SWPRR believed. Additionally, SWPRR or its predecessor railroad would have permitted public utilities to be installed within the railroad's right of way beneath the surface of Beeson Avenue.

7. The averments made in Paragraph 52 of SWPRR's Complaint are neither admitted nor denied. Strict proof of the same is demanded.

8. The averments made in Paragraph 53 of SWPRR's Complaint are neither admitted nor denied. Strict proof of the same is demanded. By way of further answer, the averments in Paragraph 53 are legal conclusions to which no response is required.

9. The averments made in Paragraph 54 of SWPRR's Complaint are neither admitted nor denied. By way of further answer, the averments in Paragraph 54 is a legal conclusion based on a statute that speaks for itself.

10. The averments made in Paragraph 55 of SWPRR's Complaint are neither admitted nor denied. Strict proof of the same is demanded. By way of further answer, the matters in this proceeding and the proceeding at Docket No. A-2019-3009552 are integrally related and should be consolidated.

WHEREFORE, the City prays your honorable Commission to:

(A) Find that it has jurisdiction to adjudicate this Complaint;

(B) Direct the abolition and removal of the Uniontown Industrial Track crossing along the entirety of Beeson Avenue and to assess the costs therefor to SWPRR and parties other than the City; and

(C) Consolidate this proceeding with the related proceeding at Docket No. A-2019-3009552.

Respectfully Submitted,



Timothy J. Witt, Esquire
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Connellsville, PA 15425
timwitt@wmblaw.com

DATED: March 4, 2020

VERIFICATION

I, Kimberly Marshall, City Clerk of the City of Uniontown, hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 3/4/20

Kimberly Marshall
Kimberly Marshall
City Clerk
City of Uniontown

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and Fayette County,	:	
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Reply to New Matter** dated March 4, 2020, 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 Emily I. DeVoe Administrative Law Judge Pennsylvania Public Utility Commission 301 Fifth Avenue Suite 220, Piatt Place Pittsburgh, PA 15222	Honorable Mary D. Long Administrative Law Judge Pennsylvania Public Utility Commission 301 Fifth Avenue Suite 220, Piatt Place Pittsburgh, PA 15222
Eric M. Hocky, Esquire Clark Hill PLC 2005 Market Street Suite 1000 Philadelphia, PA 19103	Kayla L. Rost, Esquire Pennsylvania Public Utility Commission Bureau of Investigation and Enforcement Commonwealth Keystone Building 400 North Street Harrisburg, PA 17120
Gina M. D’Alfonso, Esquire Pennsylvania Department of Transportation Office of Chief Counsel P.O. Box 8212 Harrisburg, PA 17105-8212	Verizon 900 Race Street 6 th Floor Philadelphia, PA 19107
Pennsylvania American Water Company 852 Wesley Drive Mechanicsburg, PA 17055	Columbia Gas of Pennsylvania 121 Champion Way Suite 100 Canonsburg, PA 15317

Atlantic Broadband Enterprise, LLC
2 Batterymarch Park, Suite 205
Quincy, MA 02169

West Penn Power Company
800 Cabin Hill
Greensburg, PA 15601

Respectfully,



Timothy J. Witt, Esquire
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DATED: March 4, 2020