*Via electronic service only due to Emergency Order at M-2020-3019262*

**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Knox Township :

:

v. : C-2019-3009358

:

Buffalo & Pittsburgh Railroad Inc. :

**PREHEARING CONFERENCE ORDER**

A telephonic Prehearing Conference in this case is scheduled for **Thursday, July 1, 2021, at 10:00 a.m.** To participate in the conference, you must dial the toll-free number listed below. You will be prompted to enter a PIN number, which is also listed below. You will be asked to speak your name and then the telephone system will connect you to the hearing. If you have any witnesses you want to have present during the conference, you must provide them with the telephone number and PIN number.

Toll-free Bridge Number: 1-866-566-0649

PIN Number: 83345259

**You must call into the conference on the scheduled day and time. You will not be called by the Administrative Law Judge.**

The purpose of this Prehearing Conference is to discuss the status and safety of the crossings and develop a schedule for the litigation of this matter, if necessary. The parties are not required to submit testimony at this time.

1. **The Complainant shall publish a concise statement of the proceedings which designates the crossing with sufficient particularity to be readily identifiable by owners of property adjacent thereto or affected thereby, with notice of time and place fixed by the Commission for hearing, once a week for 2 consecutive weeks immediately prior to the date of hearing in at least one newspaper of general circulation, in the county in which the crossing is located. 52 Pa.Code §3.361(b). In the event no print newspaper is available, the Complainant may utilize social media and direct notice to the affected parties. Proof of publication shall be filed with the Secretary’s Bureau.**

2. The parties shall be prepared to propose a schedule for the conduct of an engineering study of the crossings. The engineering study shall be conducted by a certified professional engineer(s) and shall report the current condition of the crossing structures, and include the engineer’s professional opinion about the current integrity of the bridge structure. Any other matters of material or serious concern should be included in the reports.

3. Each party must e-file and serve by email, **prior to 3:00 p.m. on June 29, 2021**, a Prehearing Conference Memorandum which sets forth the history of the proceedings, the issues you intend to present, a proposed plan and schedule of discovery, a listing of your proposed witnesses and the subject of their testimony, and a proposed litigation schedule, agreed to by all parties, if possible. 52 Pa.Code § 5.222(d). **The parties are expected to confer in advance of the prehearing conference and discuss a litigation schedule. A proposed litigation schedule should be included in prehearing memoranda.**

4. A request for a change of the scheduled Prehearing Conference date must state the agreement or opposition of other parties, and must be submitted in writing no later than five (5) days prior to the Prehearing Conference. 52 Pa.Code § 1.15(b). Requests for changes of initial prehearing conferences must be sent to the undersigned by email at [malong@pa.gov](mailto:malong@pa.gov), with copies to all parties of record. Only the undersigned Administrative Law Judge or Office of Administrative Law Judge Scheduling Unit may grant a request for a change of a prehearing conference. Such changes are granted only in rare situations where sufficient cause exists. Requests for changes of subsequent Prehearing Conferences or hearings, if any, should also be served directly on the presiding ALJ.

5. Please review the regulations relating to discovery, specifically 52 Pa.Code § 5.331(b), which provides, *inter alia*, that “a party shall initiate discovery as early in the proceedings as reasonably possible,” and 52 Pa.Code § 5.322, which encourages participants to exchange information on an informal basis. I urge all parties to cooperate in discovery. Such cooperation is preferable to numerous or protracted discovery disagreements, which require the presiding officer’s participation for resolution. Please be aware that there are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa.Code §§ 5.361, 5.371‑5.372.

6. Pursuant to 52 Pa.Code §§ 1.21 & 1.22, you may represent yourself, if you are an individual, or you may have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *Pro Hac Vice*, represent you. However, if you are a partnership, corporation, trust, association, or governmental agency or subdivision, you must have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *Pro Hac Vice*, represent you in this proceeding. Unless you are an attorney, you may not represent someone else. Attorneys shall insure that their appearance is entered in accordance with the provisions of 52 Pa.Code § 1.24(b).

7. Failure of a party to attend the prehearing conference, or notify the ALJ of their desire to fully participate without good cause shown, shall constitute a waiver of all objections to the agreements reached and matters decided at the prehearing conference, including, but not limited to, any special discovery rules and the litigation schedule established for this case. 52 Pa.Code §§ 5.222(e) & 5.224.

8. All filings made with the Commission’s Secretary’s Bureau must be

e-filed.

9. You must serve the presiding Administrative Law Judge directly with a copy of any document that you file in this proceeding. The ALJ must be served by email at [malong@pa.gov](mailto:malong@pa.gov) and follow-up by hard-copy is not required. If you send the undersigned any correspondence or document, you must send a copy to all other parties. For your convenience, a copy of the Commission’s current service list of the parties to this proceeding is enclosed with this Order.

Date: June 9, 2021 /s/

Mary D. Long

Administrative Law Judge

**C-2019-3009358 - KNOX TOWNSHIP V. BUFFALO & PITTSBURGH RAILROAD INC.**

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