

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Knox Township,

Complainant,

vs.

Docket No. C-2019-3009358

Buffalo & Pittsburgh Railroad Inc.,
Pennsylvania Department of
Transportation, Jefferson County &
Brookville Borough,

Respondents.

**BUFFALO & PITTSBURGH RAILROAD, INC.'S
PREHEARING CONFERENCE MEMORANDUM**

AND NOW, comes Respondent, Buffalo & Pittsburgh Railroad Company (“BPRR”), by its attorneys, Dickie, McCamey & Chilcote, P.C., J. Lawson Johnston, Esquire, Scott D. Clements, Esquire, and Aaron M. Ponzio, Esquire, and files its Prehearing Conference Memorandum, as follows:

I. HISTORY OF THE PROCEEDINGS

This matter involves three above grade railroad crossings located in Knox Township, Jefferson County, Pennsylvania where Ramsaytown Road (T-841), East Bellport Road (T-405), and Harriger Hollow Road (T-420) cross the right of way of the Buffalo & Pittsburgh Railroad, Inc. The crossings consist of two concrete arch structures at Ramsaytown and East Bellport Road, and a steel superstructure that was supported by concrete abutments at Harriger Hollow Road. The steel superstructure has been removed, but the concrete abutments remain in place.

On April 23, 2019, Knox Township (“Township”) filed a Complaint before the Pennsylvania Public Utility Commission (“Commission”) against BPRR, Pennsylvania

Department of Transportation (“PennDOT”), Jefferson County, and Brookville Borough. The Complaint alleges that three “overpasses” create traffic and safety problems due to their height and width, that the structures are deteriorating and large pieces of concrete fall from the ceiling to the roadway. The Township requests as relief that the structures be completely removed by BPRR. BPRR filed an Answer and New Matter in which it admitted ownership of the three structures, and denied the remaining allegations.

A formal field conference was conducted on June 14, 2019, with representatives from each party in attendance. The Township’s allegations were discussed, and the Commission’s representative identified certain conditions it deemed to be immediate traffic safety issues. These included loose and delaminated concrete at the Ramsaytown and East Bellport Road structures, and a lack of signage warning and denoting horizontal and vertical restrictions at each structure.

Following the field conference, BPRR agreed to remove all loose and delaminated concrete and debris from the concrete structures, and to install low clearance overhead signs on the structures. The Township agreed to furnish the low overhead clearance signs to BPRR, and to install signage as follows: advanced warning signs for vertical clearance restrictions along the approaches of each structure; advanced warning signs and an advisory speed placard for the horizontal clearance along the approaches of Ramsaytown Road; and roadway clearance markers at the edge of the abutments at Harriger Hollow Road and arch end walls at Ramsaytown and East Bellport Road. The Township further agreed to maintain the approach roadways, signs and markers, and BPRR agreed to maintain the structural integrity of its bridge structures and overhead clearance signs. These agreements were set forth in a Secretarial Letter dated September 10, 2019.

BPRR completed the concrete work within the time frame set by the Secretarial Letter. Sometime thereafter, the Township completed its installation of the signage on the structures and along the roadway approaches, and furnished to BPRR the overhead clearance signs which were promptly installed. All of the work agreed to and performed by the parties was approved at an interim inspection on February 21, 2020.

The measures implemented above were interim in nature and did not fully resolve the Complaint. The parties have discussed possible amicable resolution, but BPRR understands the position of the Township and the Commission to be an uncompromising demand for BPRR to remove all of the structures at its own cost and expense.

On June 8, 2021, a Prehearing Conference Notice was issued, scheduling a Prehearing Conference for July 1, 2021, with Administrative Law Judge Mary D. Long Presiding. A Prehearing Conference Order followed on June 9, 2021.

II. ISSUES TO BE ADDRESSED

- A. Whether any of the three railroad structures should be removed or altered when they are adequate, efficient, safe and reasonable.
- B. Whether and to what extent the Township must bear the cost and expense for the removal and/or alteration of any of the three structures, if removal and/or alteration is ordered by the Commission.

III. PROPOSED DISCOVERY PLAN AND SCHEDULE

BPRR proposes an informal exchange of information among the parties to be accomplished within thirty (30) days following the Prehearing Conference, followed by a ninety (90) day period for fact discovery.

IV. PROPOSED WITNESSES

- A. Chad Boutet
AVP Engineering, Northeast Region
Buffalo & Pittsburgh Railroad, Inc.

Mr. Boutet is expected to testify as to BPRR's ownership of the three railroad structures, BPRR's inspection and maintenance of the structures, and other matters related to the structures as necessary and appropriate.

- B. Charles A. Wooster, PE, PTOE
David E. Wooster and Associates, Inc.

Mr. Wooster is expected to testify about his inspection of each railroad structure and the roadways involved, the physical characteristics of the structures and roadways, the nature and volume of vehicular traffic on the roadways, documented crash/accident data relative to each structure and roadway, applicable traffic engineering standards, and opinions regarding the safety of each structure.

- C. Wayne Duffet, PE
TEC Associates, Inc.

Mr. Duffet may testify about the current condition of the concrete bridge structures including their structural integrity.

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

V. PROPOSED LITIGATION SCHEDULE

- A. Written direct testimony due on November 19, 2021;
- B. Written rebuttal testimony due on December 17, 2021;
- C. Witness schedule due three business days before the hearing;
- D. Hearing to occur the week of January 24, 2022; and
- E. Briefing schedule to be established at the hearing.

Respectfully Submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: /s/Aaron M. Ponzo

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CERTIFICATE OF SERVICE

I, Aaron M. Ponzo, Esquire, hereby certify that true and correct copies of the foregoing Prehearing Conference Memorandum have been served this 29th day of June 2021 upon the parties listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

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