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June 30, 2021

Via Electronic Filing

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

Re: Knox Township v. Buffalo & Pittsburgh Railroad, Inc.
Docket No. C-2019-3009358
Pre-Hearing Conference Memorandum

Dear Secretary Chiavetta:

Enclosed for electronic filing, please find attached Knox Township's Pre-Hearing Conference Memorandum.

I have served copies on the parties of record on the Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jeffrey M. Gordon

JMG/mac

Enclosure

cc: Knox Township Supervisors

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Knox Township	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2019-3009358
	:	
Buffalo & Pittsburgh Railroad, Inc.	:	
	:	
Respondent.	:	

**KNOX TOWNSHIP’S PRE-HEARING
CONFERENCE MEMORANDUM**

AND NOW, comes, Knox Township, by and through its attorneys, Gordon & Dennison, Jeffrey M. Gordon, Esquire, and files its Pre-hearing Conference Memorandum as follows:

I. HISTORY OF THE PROCEEDINGS

Knox Township filed a Complaint against Buffalo & Pittsburgh Railroad, Inc. regarding three overpasses in the Township that are in need of removal. Said overpasses are too narrow for two lane traffic and fail to meet state requirements.

In response to Knox Township’s Complaint, Buffalo & Pittsburgh Railroad, Inc. denied the overpasses failed to meet state requirements and are in need of removal. However, Buffalo & Pittsburgh Railroad, Inc. admitted the overpasses are located on its right-of-way and also admitted the tracks are not being used for railroad purposes.

A field investigation conference was held on June 14, 2019 at which time the Railroad agreed to remove concrete and debris from the structures at Ramsaytown Road and East Bellport Road and to erect signs provided by Knox Township. It was agreed that the Railroad and Knox Township would work toward a long term solution.

Pursuant to a Secretarial Letter of September 10, 2019, Knox Township was ordered to

furnish and install advance warning signs for vertical clearance restrictions, provide clearance overhead signs to Buffalo & Pittsburgh Railroad, Inc., install advance warning signs and advisory speed placard for the horizontal clearance restriction and furnish and install roadway clearance markers at its sole cost and expense. Buffalo & Pittsburgh Railroad, Inc. was ordered to install low clearance overhead signs as provided by Knox Township and furnish all material and do all necessary work to remove loose concrete from its structures at its sole cost and expense. Work was to be completed by November 15, 2019.

On February 21, 2020, Rail Safety held an interim field inspection and the parties agreed that Knox Township would seek an estimate from a local contractor for the removal of the railroad structures.

On June 4, 2021, Rail Safety requested that this matter be referred to the Office of the Administrative Law Judge. On June 9, 2021, Administrative Law Judge Mary D. Long issued a Pre-hearing Conference Order scheduling this matter for a telephonic Pre-hearing Conference on July 1, 2021.

II. KNOX TOWNSHIP PRE-HEARING MEMORANDUM

- A. All service on and communication to Knox Township on this preceeding shall be addressed to:

Jeffrey M. Gordon, Esquire
Gordon & Dennison
293 Main Street
Brookville, PA 15825
Telephone: 814-849-8316
Email: jgordon@293law.com

- B. Statement Regarding Settlement

Knox Township has been willing to discuss settlement of this matter and continues to seek settlement of this matter and is open to the prospect of

mediation.

C. Plan and Schedule of Discovery

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

D. Discovery Orders

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

E. Proposed Engineering Study

Knox Township does not believe that an engineering study is necessary in that removal of the abandoned structures is the only satisfactory resolution.

F. Proposed Litigation Schedule

The Pennsylvania Public Utility Commission Bureau of Investigation and Enforcement provided a proposed litigation schedule to all counsel and Knox Township is in agreement with said schedule, which is as follows:

1. Written direct testimony due on November 19, 2021.
2. Written rebuttal testimony due on November 17, 2021.
3. Witness schedule due three (3) business days before the hearing.
4. Hearing to occur the week of January 24, 2022.
5. Briefing schedule to be established at hearing.

G. Names and Addresses of Witnesses to be presented

James M. Berry, Jr. - Knox Township Supervisor
P.O. Box 41
Knoxdale, PA 15847
814-849-4172
KNOXTWP@WINDSTREAM.NET

Knox Township reserves the right to amend the above witness list.

III.

ISSUES TO BE ADDRESSED

- A. Whether the three (3) public crossing should be abolished.
- B. Whether the three (3) abandoned railroad structures should be removed in their entirety.
 - i. Who should be responsible for the removal of the structures?
 - ii. Who should be responsible for the costs associated with the removal of the structures?

IV. **STATEMENT OF EVIDENCE TO BE PRESENTED**

Mr. Berry will testify to safety issues related to the existing structures and how those issues effect those using the roadways.

Respectfully submitted,

GORDON & DENNISON

By


Jeffrey M. Gordon
Attorneys for Knox Township, Complainant
PA Attorney ID No. 55835

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Dated: June 30, 2021

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Pre-Hearing Memorandum dated June 30, 2021, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service by Electronic Mail:

Honorable Mary D. Long
Administrative Law Judge
PA Public Utility Commission
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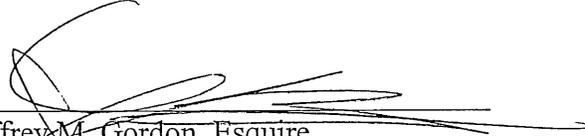
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Respectfully submitted,

GORDON & DENNISON

By: 

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Attorneys for Knox Township, Complainant