



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

November 12, 2021

Via Electronic Filing

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

Re: Investigation upon the Commission's motion into matters pertaining to the proper safety of the traveling public and disposition of the crossing where State Route SR0268, crosses over a railroad tunnel formally used by Bessemer and Lake Erie Railroad in Fairview Township, Butler County and where State Route SR0068 formerly crossed, below grade, the track of Bessemer and Lake Erie Railroad in Bradys Bend Township, Armstrong County.
Docket No. I-2019-3012769

Joint Stipulation

Dear Secretary Chiavetta:

Pursuant to Administrative Law Judge Mary D. Long's directive during the December 30, 2020 prehearing conference, enclosed for electronic filing is the **Joint Stipulation** of the parties in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please contact the undersigned.

Sincerely,

A handwritten signature in blue ink that reads 'Kayla L. Rost'.

Kayla L. Rost
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

KLR/ac
Enclosures

cc: Per Certificate of Service
Daniel R. Helfrich, P.E. (via email - dhelfrich@pa.gov)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation upon the Commission’s :
motion into matters pertaining to the proper :
safety of the traveling public and disposition :
of the crossing where State Route SR0268, :
crosses over a railroad tunnel formally used :
by Bessemer and Lake Erie Railroad in : Docket No. I-2019-3012769
Fairview Township, Butler County and :
where State Route SR0068 formerly :
crossed, below grade, the track of Bessemer :
and Lake Erie Railroad in Bradys Bend :
Township, Armstrong County. :

JOINT STIPULATION

TO ADMINISTRATIVE LAW JUDGE MARY D. LONG:

Pursuant to 52 Pa. Code § 5.232(a) and 52 Pa. Code § 5.234, the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”) files this Joint Stipulation, whereas the parties agree and stipulate to the following facts for the sole purpose of resolving the uncontested disposition of the SR 0068 public crossing in Bradys Bend Township, Armstrong County, in the above-captioned matter.

I. HISTORY OF THE PROCEEDING

By Secretarial Letter dated April 30, 2002, Docket No. A-00117858, the Commission abolished 27 of 29 crossings on the abandoned line of Bessemer & Lake Erie Railroad Company. The two remaining crossings located at SR0268 and SR0068 were to be the subject of future Secretarial Letters or formal hearing.

In 2018, the Commission was contacted by the Pennsylvania Department of

Transportation (“PennDOT”) concerning the disposition of the two crossings. An informal investigative field conference was held on June 26, 2018 and attended by the Commission’s Bureau of Technical Utility Services-Rail Safety (“Rail Safety”), PennDOT, CN/Bessemer & Lake Erie Railroad Company (“Bessemer & Lake Erie Railroad” or “B&LE”), and six (6) local homeowners located near the SR0268 tunnel.

By Order dated October 3, 2019, the Commission instituted an investigation for the purpose of determining all matters relating to the abolition and safety of the crossings where State Route SR0268 crosses, above grade, a track of Bessemer & Lake Erie Railroad in Fairview Township, Butler County, and where State Route SR0068 crosses, below grade, a track of Bessemer & Lake Erie Railroad in Bradys Bend Township, Armstrong County. The investigation was instituted to determine the future disposition of the crossings, what work shall be performed, and the allocation of cost of any work performed.

Prehearing conferences were held in this matter on November 10, 2020; December 1, 2020; December 30, 2020; and August 16, 2021. During the December 30, 2020 prehearing conference, ALJ Long instructed the parties to submit a stipulation for her review if the parties reached an agreement for the final disposition of the SR0068 crossing.¹

II. STIPULATED FACTS

1. The parties now submit this Joint Stipulation for the Commission’s consideration regarding the public crossing where State Route SR0068 crossed, below grade, a former track of B&LE in Bradys Bend Township, Armstrong County.

2. Bessemer & Lake Erie Railroad is a class II common carrier by rail.

¹ December 30, 2020 Hearing Transcript, pages 77-79.

3. Bessemer & Lake Erie Railroad is the former owner and operator of the line of track which crossed over SR0068. The track was formerly a part of the Western Allegheny Branch line.

4. Bessemer & Lake Erie Railroad received approval from the Surface Transportation Board in January 2001 to discontinue service and abandon service on the Western Allegheny Branch line, which included the subject crossing over SR0068, under docket number Ab-88 (Sub No. 10X).

5. Bessemer & Lake Erie Railroad initially sought approval with the Commission to abolish the subject crossing in addition to 27 other crossings and one tunnel on this line, A-00117858, but the SR0068 crossing was not included in the Secretarial Letter approving the abolishment of the other crossings.

6. The railway bridge carried a single track for B&LE over SR0068 and contained substandard horizontal and vertical clearances that hindered safe passage of the traveling public and created a bottleneck, resulting in an area prone to accidents.

7. PennDOT, with permission from B&LE, removed the SR0068 crossing structure in 2004 to realign the roadway at its sole cost and expense.

8. The removal of the bridge in its entirety opened up the crossing area and allowed it to meet both horizontal and vertical clearance designs, while reducing the likelihood of fixed object accidents. The roadway was also realigned which improved the sight distance and overall safety of the traveling public.

9. The parties agree that the SR0068 public crossing should be abolished and request that the Commission issue an Opinion and Order effectuating the abolishment of the SR0068 crossing in Bradys Bend Township, Armstrong County.

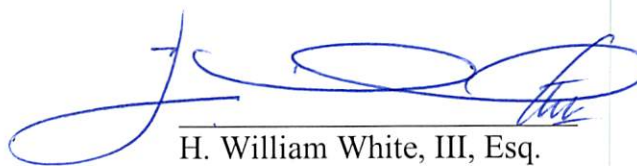
10. PennDOT agrees to maintain the roadway within its right-of-way at the subject crossing at its sole cost and expense.

11. The benefits and obligations of this Joint Stipulation shall be binding upon the successor and assigns of the parties to this Joint Stipulation.

12. This Joint Stipulation may be signed in counterparts and all signatures attached hereto will be considered as originals.

[SIGNATURE PAGE TO FOLLOW]

Date: 11/9/2021



H. William White, III, Esq.
Counsel for Butler County

Date: _____

Jennifer Brown-Sweeney, Esq.
*Counsel for the Commonwealth of
Pennsylvania, Department of
Transportation*

Date: _____

Kayla L. Rost, Esq.
*Counsel for the Commission's Bureau of
Investigation and Enforcement*

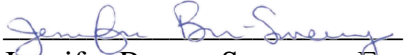
Date: _____

John M. Steidle, Esq.
*Counsel for Bessemer & Lake Erie
Railroad Company*

Date: _____

H. William White, III, Esq.
Counsel for Butler County

Date: 11/8/2021 _____



Jennifer Brown-Sweeney, Esq.
*Counsel for the Commonwealth of
Pennsylvania, Department of
Transportation*

Date: _____

Kayla L. Rost, Esq.
*Counsel for the Commission's Bureau of
Investigation and Enforcement*

Date: _____

John M. Steidle, Esq.
*Counsel for Bessemer & Lake Erie
Railroad Company*


Date: _____

H. William White, III, Esq.
Counsel for Butler County

Date: _____

Jennifer Brown-Sweeney, Esq.
*Counsel for the Commonwealth of
Pennsylvania, Department of
Transportation*

Date: 11/10/2021



Kayla L. Rost, Esq.
*Counsel for the Commission's Bureau of
Investigation and Enforcement*

Date: _____

John M. Steidle, Esq.
*Counsel for Bessemer & Lake Erie
Railroad Company*

Date: _____

H. William White, III, Esq.
Counsel for Butler County

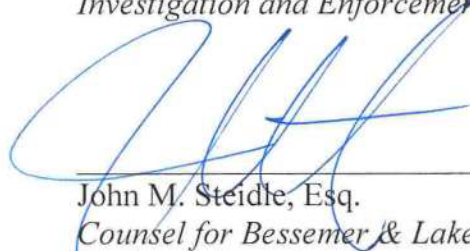
Date: _____

Jennifer Brown-Sweeney, Esq.
*Counsel for the Commonwealth of
Pennsylvania, Department of
Transportation*

Date: _____

Kayla L. Rost, Esq.
*Counsel for the Commission's Bureau of
Investigation and Enforcement*

Date: 11/10/2021



John M. Steidle, Esq.
*Counsel for Bessemer & Lake Erie
Railroad Company*

**BEFORE THE
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Investigation upon the Commission's :
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crossed, below grade, the track of Bessemer :
and Lake Erie Railroad in Bradys Bend :
Township, Armstrong County. :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Joint Stipulation** dated November 12, 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 Only

Honorable Mary D. Long
Administrative Law Judge
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Pittsburgh, PA 15222
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Bradys Bend Township Supervisors
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Butler, PA 16003


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Paul R. Dorr, Chairman
Fairview Township Supervisors
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Karns City, PA 16041

Ann Marie Sherwin
1276 Kittanning Pike
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William and Kay Barnhart
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