

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Reading Blue Mountain and Northern Railroad for approval of the alteration of the crossing where State Route 0061 crosses, at grade, the single track of Reading Blue Mountain and Northern Railroad (DOT 592 477 N) located in Muhlenberg Township, Berks County

A-2021-3026537

**UGI UTILITIES, INC.'S PETITION TO INTERVENE, PROTEST
AND SEEK RECONSIDERATION OF STAFF ACTION**

UGI Utilities, Inc. ("UGI") hereby Petitions to Intervene, Protest, and seek Reconsideration of Staff Action in the above-captioned proceeding. In support thereof, UGI avers the following:

1. The within Petitioner is:

UGI Utilities, Inc.
1 UGI Drive
Denver, PA 17517

2. UGI's attorneys in this matter where all documents should be served:

Law Offices of Kevin T. Fogerty
Kevin T. Fogerty, Esquire
Mill Run Office Center
1275 Glenlivet Drive, Suite 150
Allentown, PA 18106

Telephone - (610) 366-0950
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E-Mail kfogerty@fogertylaw.com

3. UGI is a regulated public utility, legally created and in good standing.

4. UGI provides regulated natural gas utility service in the

Commonwealth of Pennsylvania, and in particular, in Muhlenberg Township, and where the property which is the subject of this Petition is located.

5. On June 11, 2021, Reading Blue Mountain and Northern Railroad (“RBMNR” or “Applicant”) filed an Application with the Public Utility Commission (“PUC”) seeking, *inter alia*, to reactivate a rail line crossing located at 592 477 N on SR 61 in Muhlenberg Township, Pennsylvania (the “Application”). The Application is incorporated by reference herein as if the same were set forth at length.

6. The Application, at Para. 5, indicates that “PennDOT and Muhlenberg Township as well as any other utilities in the vicinity of the crossing may be affected by this alteration.”

7. Per the Application, at Para. 4, the proposed alteration would entail uncovering the pre-existing rails in the crossing, which presumably would require, among other construction work, earth disturbance and laying the new substrate on which new rails would be placed.

8. In preparing for and filing the Application, it is Applicant’s obligation and duty to thoroughly investigate, by PA One Call or other means, all utilities who may be affected by the alteration.

9. UGI believes and avers that the Application filed by RBMNR either did not identify UGI as a utility provider affected by the alteration, and/or UGI was not otherwise notified of the proposed alterations and construction work, which may directly affect its underground natural gas utility lines located in that area.

10. Upon information and belief, no PA One Call was completed; otherwise UGI would have properly been identified as a public utility provider who may be affected by the alteration and therefore subject to notice as a party in interest.

11. UGI lawfully occupies the area which presently has a 12-inch high-pressure line which was installed in 1967, which appears to be located within the area of RBMNR's proposed area of work and alterations.

12. As evidenced by a Petition previously filed on November 5, 2021 by Muhlenberg Township Authority, there are clearly other utility lines also located within the area of RBMNR's proposed work.

13. UGI first received notice of this proposed Application and crossing when it received a copy of the letter, plus attachment, sent from Bingaman Hess, Attorneys for Muhlenberg Township Authority, sent to the Pennsylvania Public Utility Commission.

14. To the extent there were any prior field investigations and conferences concerning this matter, as may have been referenced in the PUC Secretarial Letter dated October 20, 2021, UGI was not notified in advance, and did not participate.

15. The presently-proposed PUC Order, as referred to in the Secretarial Letter relating to this matter, proposes a PUC Order allowing reactivation of the subject rail crossing, notwithstanding that it directly impacts UGI, and other

utility providers, serving large portions of the population of Muhlenberg Township, and surrounding communities.

16. RBMNR's proposed work within the area of UGI's 12-inch natural gas high-pressure line would pose substantial risk to the health, safety and welfare of the surrounding community, as well as damage to UGI's utility structure, all of which would be placed at risk of damage, including what could be a catastrophic event.

17. The proposed reactivation of rail service at the subject crossing, above UGI's 12-inch utility line, places UGI infrastructure at risk of damage, including catastrophic failure.

18. Damage to or failure of UGI's 12-inch high-pressure natural gas line would significantly impair, alter, reduce and/or stop natural gas service to a significant portion of Muhlenberg Township residents, as well as residents in surrounding communities, for an undetermined and indefinite period of time.

19. Based on the foregoing, UGI believes and avers it has standing in these proceedings and must be afforded party status, as if it possesses an interest which may be directly impacted and affected by RBMNR's Application, and the outcome of these proceedings.

20. UGI's interests are direct, immediate and substantial, and not adequately represented by any other existing party or parties seeking to intervene.

21. UGI's participation is a public interest for the residents it serves.

22. UGI opposes the Application as it may be or is reasonably expected to result in damage to and/or catastrophic failure of UGI's natural gas service line, and further, particularly because the Application, and the relief sought, could be interpreted to require UGI to change, relocate, remove or alter the location of its existing natural gas line; in addition UGI believes and avers that in the event its natural gas line requires modification or relocation, the Applicant should be solely responsible for all costs associated therewith or related thereto.

23. RBMNR has failed to take UGI's direct interest at issue here into account, and failed to address the impact of its project on UGI's existing facilities.

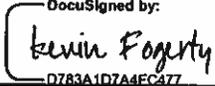
24. UGI is filing this Petition to Intervene, Protest, and Seek Reconsideration of Staff Action for the good-cause reasons set forth herein, particularly considering UGI's late notification of the filing of RBMNR's Application.

25. UGI respectfully reserves the right to amend or supplement this Petition as additional information becomes available concerning this Application.

WHEREFORE, UGI Utilities, Inc. respectfully requests the Pennsylvania Public Utility Commission grant this Petition, affirm that UGI Utilities, Inc. has full party status with respect to all aspects of this proceeding, and further requests that the Pennsylvania Public Utility Commission investigate and hold full evidentiary hearings in this matter, and that it deny the subject Application, and take such further actions as it deems necessary, appropriate and just under the circumstances.

Respectfully submitted,

LAW OFFICES OF KEVIN T. FOGERTY

By:  DocuSigned by:
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Kevin T. Fogerty, Esquire
PA Attorney I.D. No. 36667
*Attorneys for Petitioner, UGI
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VERIFICATION

I, Pamela A. Jocsak, do hereby state and verify that I am Vice President Engineering & Operations Support at UGI Utilities, Inc., Petitioner in the within action; that I have read the foregoing UGI UTILITIES, INC.'S PETITION TO INTERVENE, PROTEST, AND SEEK RECONSIDERATION OF STAFF ACTION; and that the statements therein are true and correct, partly upon personal knowledge, the remainder upon information and belief.

I understand that false statements herein are made subject to the penalties of 18 Pa. C. S. A. §4904, relating to unsworn falsification to authorities.

Date: November 12, 2021

DocuSigned by:
Pamela A. Jocsak
837DF02A2B304E5...

Pamela A. Jocsak

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Petition upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

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Reading Blue Mountain and
Northern Railroad
P.O. Box 218
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mjohnson@readingnorthern.com (via e-mail)

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