

**BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

Complaint filed by Reading Blue Mountain &	:	C-2020-3016906
Northern Railroad Company involving the	:	
Deteriorated condition of the railroad crossing	:	
Surface and roadway approaches at the public	:	
Crossing (DOT 361 425 J) where SR 2019	:	
(Oak Street) crosses, at grade, the tracks of	:	
Reading Blue Mountain & Northern Railroad	:	
Company, located in the Pittston Township,	:	
Luzerne County	:	

**PREHEARING CONFERENCE MEMORANDUM OF READING BLUE MOUNTAIN &
NORTHERN RAILROAD**

I. BACKGROUND

This matter involves the condition of a railroad crossing at a location in Pittston Township, Luzerne County, along State Route 2019 (Oak Street). At this location, a dual set of railroad tracks cross at grade level situated on a curve and hillside roadway, said tracks owned and operated by Reading Blue Mountain and Northern Railroad, (the "Railroad"). The condition and safety of the crossing was adversely affected by the deteriorating condition and grade of the rt. 2019/Oak Street roadway, which is under control of respondent PennDOT.

Field investigations and formal conferences occurred on September 30, 2020 and March 31, 2021. Following the field conferences, both Penn DOT and Railroad reached agreement to repair and reconstruct the crossing and roadway approaches. A Secretarial Letter was issued on April 30, 2021, setting forth the terms of the parties' respective obligations. Railroad agreed to perform revisions to the concrete and asphalt crossing surfaces, and subgrade repairs underneath the railroad ties and tracks. The Railroad further agreed to removal and replacement of a length of asphalt base paving and provide flagging during the project.

Penn DOT agreed to apply the topcoat asphalt paving for the roadway approaches, and to arrange for a 7-day road closure and detour, to allow for the crossing work.

Following a Petition for Reconsideration of the initial Secretarial Letter filed by Penn DOT a revised Secretarial Letter was issued on June 28, 2021. The revisions added clarification to the amount of asphalt base coverage to be provided but did not otherwise change the parties' obligations and responsibilities.

The track crossing and roadway approach work was completed by the parties over the summer of 2021. In the course of performing the crossing reconstruction, Railroad elevated the level of the tracks at, and approaching, the crossing. This was done to improve the capability of handling train traffic running at increased speeds at this crossing which is situated on a curve and hillside roadway, an action that is within the purview of the Railroad to make. PennDOT takes issue with this elevation of the tracks, contending it created a dangerous condition for vehicles approaching on the roadway. However, PennDOT was not willing to extend the roadway approaches to accommodate. Extending the roadway approaches is the proper method of accommodating the track elevations at the crossing.

II. ISSUES

1. Whether the necessary elevation to the crossings is in compliance with the mandates of the Secretarial Letters?

Suggested Answer: *In the affirmative.*

2. Whether the necessary elevations to the crossing creates a safety hazard to the roadway approaches.

Suggested Answer: *In the negative.*

3. Whether the cost and repairs of remediation to the crossing roadway approaches should be borne by Penn DOT, and not the Railroad.

Suggested Answer: *In the affirmative.*

4. The timing of the necessary repair and remediations.

III. WITNESSES

1. Chris Goetz, Vice President of Maintenance of Way, Reading, Blue Mountain, and Northern Railroad: Will testify to personal knowledge of the past and present conditions of the railroad crossing, the past and present conditions and deterioration of the roadway approaches, the necessity of elevating the track at the crossing, and the required extensions of the roadway approaches to address any potential safety issues.

2. Matt Johnson, Vice President of Asset Management, Reading, Blue Mountain, and Northern Railroad: Will testify to personal knowledge of the past and present condition of the railroad crossing, the past and present conditions and deterioration of the roadway approaches, and will also testify to efforts to collaborating with Penn DOT to arrange for a permanent solution to the condition.

IV. PROPOSED LITIGATION SCHEDULE

The following is a proposal from the Railroad only. The Railroad will coordinate with Penn DOT to reach a satisfactory joint proposed schedule.

April 1, 2022 - Discovery concludes.

May 1, 2022 - Direct testimony filed.

May 15, 2022 - Rebuttal testimony filed.

June (TBD) - Evidentiary Hearing.

V. PROPOSED PLAN OF DISCOVERY

The Railroad does not believe that additional discovery or formal communication between the parties is necessary. However, the Railroad is willing to enter into discussions with PennDOT on possible resolution of the issues prior to a hearing and ask that any hearing date be scheduled accordingly, to provide the Parties this opportunity.

Respectfully submitted:

FANELLI, EVANS & PATEL, P.C.

By: 

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Company, located in the Pittston Township,	:	
Luzerne County	:	

VERIFICATION

I, MATTHEW A. JOHNSON, in my capacity as Vice President, Asset Management & Community Affairs for Reading & Northern Railroad, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are subject to the penalties of 18 C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 1/13/22



MATTHEW A. JOHNSON, Vice President
Asset Management & Community Affairs
Reading & Northern Railroad

**BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

Complaint filed by Reading Blue Mountain & Northern Railroad Company involving the Deteriorated condition of the railroad crossing Surface and roadway approaches at the public Crossing (DOT 361 425 J) where SR 2019 (Oak Street) crosses, at grade, the tracks of Reading Blue Mountain & Northern Railroad Company, located in the Pittston Township, Luzerne County	: : : : : : : : : :	C-2020-3016906
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a true and correct copy of the foregoing document upon the parties listed below in accordance with the requirements of § 1.54 (relating to service by a party):

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The Honorable Emily DeVoe
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Date: *January 13, 2022*

John R. Kantner

JOHN R. KANTNER, ESQUIRE