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April 28, 2022

**Via Electronic Filing**

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

Re: Knox Township v. Buffalo & Pittsburgh Railroad, Inc., et al.  
Docket No.: C-2019-3009358  
Our File No.: 0057694.0368163

Dear Secretary Chiavetta:

Enclosed for electronic filing is Buffalo & Pittsburgh Railroad Inc.'s Objections to Inclusion of Statements in the Secretarial Letter of September 10, 2019, as Record Evidence. Copies have been served on the parties of record in accordance with the Certificate of Service.

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

Very Truly Yours,

*Aaron M. Ponzio*

Aaron M. Ponzio

AMP/eie

Attachment

cc (via email w/ attachment): Hon. Mary D. Long  
Per Certificate of Service

14352731.1

**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.

**OBJECTIONS TO INCLUSION OF STATEMENTS IN THE SECRETARIAL LETTER OF  
SEPTEMBER 10, 2019, AS RECORD EVIDENCE**

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, in accordance with the Interim Order on Contents and Closing of the Record, files its Objections to the Inclusion of Statements in the Secretarial Letter of September 10, 2019, as Record Evidence, as follows:

1. BPRR generally objects to any factual statement in the Secretarial Letter of September 10, 2019 (“Secretarial Letter”), that is not supported by evidence or testimony presented at the evidentiary hearing that was held on January 25, 2022.

2. BPRR specifically objects to the statement that there are “ongoing traffic safety issues”, in the first paragraph of the Secretarial Letter. This characterization of traffic safety issues as “ongoing” is an allegation or statement of opinion. It is not a factual statement, and should not be considered as record evidence.

3. BPRR specifically objects to the statement, “The Township did report that there have been motor vehicle incidents/accidents due to one-way TRAFFIC restriction at the structure.” This statement is on the second page of the Secretarial Letter in the second paragraph under the heading **Ramsaytown Road (T-841) DOT 863 298 X**. The statement

consists of hearsay and is neither reliable nor probative. *See* 66 Pa. C.S. §332(b). Further, the testimony presented at the evidentiary hearing revealed that the Township has no records of any accidents being reported. Tr., at 162:3-6.

4. BPRR objects to the statement “All three (3) public crossings have poor sight distance for motor vehicle and pedestrian traffic.” BPRR also objects to the statement, “All the crossings offer no protection at the ends of the concrete abutments and arch end walls and are exposed 90° to traffic.” These statements are located on page three of the Secretarial Letter in the second full paragraph. These statements consist of opinions, not factual statements, and should not be considered as record evidence. Further, these statements are contradicted by evidence that was admitted at the evidentiary hearing. *See* BPRR Statement No. 5, at 4:29-5:8 (describing sight distances); and BPRR Statement No. 3, at 3:12-13, 4:17-18 (describing that the bridge abutments are not perpendicular to the roadway).

Respectfully Submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: /s/Aaron M. Ponzo

J. Lawson Johnston, Esquire

PA I.D. #19792

Scott D. Clements, Esquire

PA I.D. #78529

Aaron M. Ponzo, Esquire

PA I.D. 203584

Attorneys for Buffalo & Pittsburgh  
Railroad, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing Objections to Inclusion of Statements in the Secretarial Letter of September 10, 2019, as Record Evidence have been served this 28<sup>th</sup> day of April, 2022, upon all parties 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  
Pennsylvania Public Utility Commission  
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Suite 220, Piatt Place  
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[malong@pa.gov](mailto:malong@pa.gov)

Michael L. Swindler, Esquire  
Kayla L. Rost, Esquire  
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Respectfully Submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

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