

**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 :

**REPLY BRIEF SUBMITTED BY READING BLUE MOUNTAIN AND NORTHERN  
RAILROAD**

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## ARGUMENT

### **1. Reading Blue Mountain & Northern Railroad Company presented clear evidence that raising the elevation of the tracks was necessary.**

Chris Goetz, Vice President of Maintenance of Way, at Reading Blue Mountain & Northern Railroad Company (“RBMN”) when ask to speak to the necessity of the work that was performed by RBMN at the Oak Street crossing in summer 2021 unequivocally testified that:

“it was necessary for us to increase the elevation in the curves of track one and track two at the crossing during the rehabilitation according to FRA (Federal Railroad Administration) requirements due to speeds run on both track one and track two of the crossing through the roadway portion of the crossing. The FRA sets these regulations in their Part 213 Track Safety Standards Subpart C Track Geometry that we follow according to AREMA Table 5-3-4-2” for unbalanced superelevation for various speeds on curves. Basically, if you are traveling at “x” speed and the curve is “x” degree that will determine the elevation needed in the curve. At request I would be happy to provide these published regulations.

It was also necessary for us to complete work in the crossing again due to the deterioration of the then high type surface panels due to PennDOT’s failure to maintain their roadway approaches to the crossing.”

It cannot be disputed that, pursuant to the testimony of Mr. Goetz, it was necessary for RBMN to raise the tracks. Mr. Goetz bases this conclusion not only on his experience but also on published regulations governing track safety standards. Part 213 Track Safety Standards Subpart C Track Geometry sets forth the need for the track to have been raised. PennDOT failed to present any evidence which would refute such regulator or would deem it unapplicable.

In stark contrast to the testimony of Mr. Goetz, was the testimony of William Sinick. Mr. Sinick's testimony failed to refute the necessity of raising the track. Additionally, Mr. Sinick was unable to produce and/or cite to any written standards which establish either the necessity of raising the tracks or the need for RBMN to have obtained Commission approval to do so. When Mr. Sinick was directly asked if the alterations RBMN made should have been made part of a separate application to the Commission he indicates that the changes "should have been discussed at the field conference..." he then proceeds into a lengthy diatribe as opposed to answering the very direct question. (Transcript at 106.) Mr. Sinick's testimony is entirely based on his field observations. At no point does he articulate an established standard to which his position is supported by.

**2. Reading Blue Mountain & Northern Railroad Company presented unequivocal evidence establishing that the tracks needed to be raised in accordance with Federal Railroad Administration requirements thus any indirect effect this has had on the roadways should be assessed against PennDOT.**

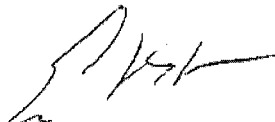
PennDOT, by virtue of its stated purpose as a state agency, oversees Pennsylvania roadways. RBMN has a responsibility to comply with the Federal Railroad Administration requirements. PennDOT fails to acknowledge this and alternatively takes the position that RBMN should be responsible for an area of the road that this Commission previously determined was the responsibility of PennDOT.

Mr. Sinick, when ask if he ever inquired about alterations being made to the tracks, replied that "it was never discussed. And I did not ask." (Transcript at 111.) Ignorance to a change in the height of the rails is not a permissible defense. At a minimum, PennDOT had constructive notice of the increased height of the rails. PennDOT had the opportunity to inspect

the work that was being done and failed to address the issue of the raised rails. PennDOT waited until all the work was completed to take issue with the rails height.

Respectfully submitted,

RICK STOCK LAW



BY: \_\_\_\_\_

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*Attorneys for Reading Blue  
Mountain & Northern Railroad  
Company*

**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 on this 25<sup>th</sup> day of August, 2022 served a true and correct copy of Reply Brief of Reading Blue Mountain & Northern Railroad Company, on the parties as follows:

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