



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

IN REPLY PLEASE
REFER TO OUR FILE

January 25, 2023

C-2021-3028929

Via Eservice and Email Only
TO ALL PARTIES OF RECORD

Complaint filed by Jennifer Belette verses PennDOT District 4-0 and Reading Blue Mountain & Northern Railroad Company involving the condition of a highway/rail crossing surface at the public crossing (DOT 361 520 E) where SR 3019 (Stockton Mountain Road) crosses, at-grade, the tracks of Reading Blue Mountain & Northern Railroad Company, located in Hazle Township, Luzerne County.

To Whom It May Concern:

By Secretarial Letter, dated October 20, 2021, the Commission sent notice to all parties of record of a Complaint filed involving the subject captioned crossing.

On November 17, 2021, a field investigation and conference was arranged by a Commission staff engineer and held at the site of the public crossing.

Representatives of Hazle Township, Reading Blue Mountain and Northern Railroad Company (RBMN) and the Pennsylvania Department of Transportation (Department) were in attendance.

Although notified by letter dated November 5, 2021, there were no representatives from Luzerne County or the Complainant in attendance.

At the field conference, it was noted that SR 3019 (Stockton Mountain Road) is two lane, two directional bituminous paved roadway that approaches and traverses through an at-grade single track passive highway/railroad public crossing (DOT 361 520 E).

The at-grade asphalt crossing surface along with the approach roadways were in poor condition and in need of repair. R15-1 crossbuck and (W10-1) railroad advanced warning signs were in place prior to the highway/railroad crossing surface.

To satisfy and resolve the complaint, RBMN and the Department both mutually agreed to amicably repair and reconstruct the highway/railroad asphalt crossing surface and roadway approaches thereto.

On November 22, 2022, a Commission staff engineer arranged and conducted a final inspection of the work completed at the site of the highway/railroad public crossing.

Representatives of Hazle Township, Reading Blue Mountain and Northern Railroad Company (RBMN), the Pennsylvania Department of Transportation (Department) and the Complainant were in attendance.

At the final inspection it was noted that all physical work had been completed as agreed upon to reconstruct and repair the public highway/railroad crossing (DOT 361 520 E).

Upon discussion at the final inspection, it was determined that the Complainant was satisfied with all work completed to resolve the complaint. The Complainant agreed that the docket should be closed, and the formal complaint be dismissed.

We have carefully reviewed the record in this proceeding and are of the opinion that a public hearing is not necessary inasmuch as the respondent parties of record have satisfactorily completed the work to resolve the complaint, the Complainant was satisfied with the work completed and no party requested a hearing for any unresolved issues.

The overall maintenance responsibilities for the public crossing (DOT 361 520 E) appear to have not been memorialized or validated by previous Commission Order or Secretarial Letter, the parties agreed to their various maintenance responsibilities at the subject crossing.

The Commission issues this Secretarial Letter in accordance with Section 2702 of the Public Utility Code and finds that the assignment of maintenance responsibilities for the crossing is necessary and proper for the service, accommodation, convenience or safety of the public; THEREFORE,

1. The caption of the subject proceeding is hereby revised as shown herein.
2. Reading Blue Mountain and Northern Railroad Company, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain its railroad facilities at the crossing, including the (R15-1) crossbuck and supplementary railroad signs, tracks and all appurtenant equipment and to maintain at all times in a safe, smooth and satisfactory condition the crossing surface for the full width of the roadway and shoulders located between the rails and for a distance of twenty-four (24) inches beyond the outermost rails and to provide the Pennsylvania Department of Transportation at least ten (10) business days advance notice when performing any work as directed by this paragraph that may affect their facilities; all in accordance with the Manual on Uniform Traffic Control Devices and this Secretarial Letter.

3. Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the highway approach roadways and shoulders to the subject crossing to points twenty-four (24) inches beyond the first outside rail on each approach in a safe, smooth and satisfactory condition and to maintain the (W10-1) railroad advanced warning signs on the approaches thereto, the (W10-3) railroad advanced warning signs on State Route 0940 and to provide Reading Blue Mountain and Northern Railroad Company at least ten (10) business days advance notice when performing any work as directed by this paragraph that may affect their facilities; all in accordance with the Manual on Uniform Traffic Control Devices and this Secretarial Letter.

4. The Complainant by certified statement on November 22, 2022, at the on-site final inspection of the highway/railroad public crossing (DOT 361 520 E) acknowledged satisfaction of all work completed by the Respondents to resolve the complaint.

5. The complaint is hereby dismissed, and the case “CLOSED.”

The Parties are reminded that failure to comply with this or any Order or Secretarial Letter in this proceeding may result in an enforcement action seeking civil penalties and/or other sanctions pursuant to 66 Pa. C.S. § 3301.

The Commission has waived certain regulatory service provisions as directed by the Commission’s Order at M-2021-3028321. Currently, while the Commission’s physical facilities are open for business, some of the operational restraints occasioned by the pandemic remain. It is evident that the pandemic and its changing nature require certain procedural flexibility for the public, the regulated community, and the Commission. Toward this end, the Commission will continue to permit electronic service by the Commission on all parties, regardless of whether a particular party has agreed to electronic service. An exception to this general waiver is where the Public Utility Code requires service by specified means, e.g., Section 702. Additionally, service on Commission staff in proceedings pending before it, whether staff is a party or otherwise, shall be exclusively electronic unless the parties agree otherwise. Filings must be submitted by e-filing with the Secretary of the Commission by opening an e-filing account through the Commission’s website and accepting eservice at <https://www.puc.pa.gov/filing-resources/efiling/>. If your filing contains confidential material, you are required to file by overnight delivery to ensure the timely filing of your submission.

If you are dissatisfied with the resolution of this matter, you may, as set forth in 52 Pa. Code §§ 1.31 and 5.44, file a Petition for Reconsideration from Staff Action (Petition) with the Commission within twenty (20) days of the date of this letter. The Petition shall be submitted by e-filing said petition within twenty (20) days, or if no timely request is made, the action will be deemed to be a final action of the Commission.

The Petition MUST include: (1) a written statement (divided into numbered paragraphs) outlining the reasons for the request; (2) the case docket number (it is provided for you at the top right hand corner of this letter); (3) the party on whose behalf the petition is made; (4) a Certificate of Service on the other parties of record; and (5) a Verification with original signature in accordance with 52 Pa. Code § 1.36.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style with a large initial "R".

Rosemary Chiavetta
Secretary