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September 25, 2025

VIA ELECTRONIC FILING

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

**Re: Blackwood Inc., v. Reading Blue Mountain and Northern Railroad Company
Docket No. C-20078010**

**Application for Approval of the Abolition of the Crossing where Township
Route T-567 crosses at grade the tracks of Reading, Blue Mountain and
Northern Railroad Company, located in Reilly Township, Schuylkill County
Docket No. A-2008-2016324**

Dear Secretary Homsher:

Enclosed please find the Brief of Reilly Township for filing in the above-referenced matters. A copy has been served upon all interested parties of record. Thank you.

Sincerely yours,



Benjamin C. Dunlap, Jr.

BCDjr:klg
Enclosures
cc: All Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Blackwood Inc.,	:	Docket No. C-20078010
	:	
v.	:	Filed Electronically
	:	
Reading Blue Mountain and Northern Railroad Company	:	
	:	
Application for Approval of the Abolition of the Crossing where Township Route T-567 crosses at grade the tracks of Reading, Blue Mountain and Northern Railroad Company, located in Reilly Township, Schuylkill County	:	Docket No. A-2008-2016324
	:	Filed Electronically
	:	
	:	

BRIEF OF REILLY TOWNSHIP

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Date: September 25, 2025

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I. STATEMENT OF THE CASE

This case involves the question of whether a former railroad crossing (“Crossing”) owned by Reading Blue Mountain & Northern Railroad Company (“RBMN”) located at the intersection of Blackwood Road (formerly Township Road T-567) in Reilly Township (“Township”), Schuylkill County, should be abolished or re-established.

The parties dispute whether Blackwood Road is a “public” road, as a portion of the road encompassing the Crossing was vacated on May 7, 1946, pursuant to an Order of the Court of Common Pleas of Schuylkill County. Reilly Township enacted an ordinance purporting to vacate the entirety of Blackwood Road on June 23, 1992. Thereafter, the unimproved roadway leading to the Crossing on both ends of the private property owned by Blackwood, Inc. (“Blackwood”) was barricaded by that company.

Blackwood filed a Complaint (C-20078010) on July 20, 2007, seeking the use of the Crossing via Blackwood Road, which Blackwood refers to as a “public road.” On August 31, 2007, RBMN filed an Answer with New Matter denying the allegations in Blackwood’s Complaint. In its New Matter, RBMN asserted that Township Rt. T-597 was vacated, and that Crossing DOT #592007F was likewise vacated. On September 7, 2007, the Township filed an Answer with New Matter asserting that it had no control over RBMN or the Crossing and requested dismissal from the instant action.

On December 31, 2007, RBMN initiated a second proceeding at Docket No. A-2008-2016324 by an Application to Abolish Crossing DOT # 592 007 F. In addition to its Application before this Commission (“PUC”), RBMN separately filed a Petition to Vacate Township Road T-597 with Reilly Township on February 27, 2008. The Township responded that Township Road T-597 was formerly deemed vacated by Court Order and by a local ordinance and thus

declined to act on RBMN's Petition. In response, RBMN filed a Local Agency Appeal before the Schuylkill Court of Common Pleas at Docket No. S-1179-2008.

In the interim, C-20078010 and A-2008-2016324 were consolidated, and hearings commenced before Administrative Law Judge ("ALJ") David A. Salpa beginning on June 10 and 11, 2008. Following a day and a half of hearings, ALJ Salpa placed a stay on the instant matter pending a final order from the Court of Common Pleas on the Local Agency Appeal, which the parties anticipated would resolve several of the issues pending before the PUC.

On May 15, 2025, the stay was lifted after RBMN withdrew its appeal in the County Court, and the issue of the abolition or reestablishment of the Crossing was scheduled for a final hearing before ALJ F. Joseph Brady. On August 7, 2025, the Parties attended an in-person hearing before ALJ Brady to present evidence on these issues.

Specifically, ALJ Brady directed Blackwood to present evidence and witnesses in support of its Complaint requesting the use of the Crossing via Blackwood Road, as well as the PUC's jurisdiction to decide the issue. Blackwood presented direct testimony from one witness, Nolan Perin, the President of that company.

ALJ Brady likewise directed RBMN to present evidence demonstrating the PUC's jurisdiction over public versus private crossings and supporting its Application to Abolish the Crossing. To that end, RBMN presented additional testimony from one fact witness, Joseph Matuella, RBMN's Assistant Vice President of Real Estate.

Finally, Reilly Township, which had not had the opportunity to present direct testimony before the 2008 proceedings were stayed, presented the testimony of Robert Butensky, a member of the Reilly Township Board of Supervisors. The Township's evidence was in

support of its position that there was no longer a public road at the site of the former crossing and that the PUC should formally abolish the Crossing.

II. SUMMARY OF ARGUMENT

The central issue presented in this case is whether a railroad and/or a municipality should be held financially responsible for reconstructing and maintaining a railroad crossing over a privately used, gated road for the sole benefit of a private company. The evidence and equities point to one, decisive answer: NO.

Local governments and public utilities exist for one primary purpose: to serve the public. To that end, public funds are carefully allocated and expended in the interest of public health, safety and welfare. Similarly, the PUC's rules and procedures are in place to protect the public interest.

Blackwood is a private company that is seeking to require a railroad public utility to reconstruct and maintain a former crossing over a portion of Blackwood Road, which the documentary evidence conclusively shows was vacated almost 80 years ago. The proposed crossing would have no benefit to the public, as Blackwood itself prevents the public from accessing the road through its property with locked gates north and south of the former crossing.

In addition to the lack of public access, the construction and use of a crossing with Blackwood Road would run contrary to the service, accommodation, convenience and safety of the public. There is no evidence that the former public roadway is traversable by vehicular traffic, and Complainant's property is used solely for waste disposal. While a crossing would certainly be convenient to Blackwood, it has failed to identify any other person or entity that would benefit from a reconstruction of the former crossing and roadway leading to it.

In sum, the facts and equities clearly demonstrate that formally abolishing the Crossing is necessary and proper for the service, accommodation, convenience and safety of the public.

III. ARGUMENT

A. Blackwood Road in the area of the former crossing was vacated nearly 80 years ago. Therefore, it no longer qualifies as a public rail-highway crossing under the Public Utility Code and the crossing must be abolished.

Section 2702 of the Public Utility Code provides the basis for the PUC's jurisdiction in railroad crossing cases. Subsection (a) sets forth the general parameters of the PUC's jurisdiction as follows:

No public utility, engaged in the transportation of passengers or property, shall, without prior order of the commission, construct its facilities across the facilities of any other such public utility or across any highway at grade or above or below grade, or at the same or different levels; and no highway, without like order, shall be so constructed across the facilities of any such public utility, and, without like order, *no such crossing heretofore or hereafter constructed shall be altered, relocated, suspended or abolished.*

66 P.S. § 2702(a) (emphasis supplied).

Subsection (c) of the statute then limits the exercise of jurisdiction to issues involving public crossings. Subsection c provides, in relevant part:

[T]he commission shall have exclusive power after hearing, upon notice to all parties in interest, including the owners of adjacent property, *to order any such crossing heretofore or hereafter constructed to be relocated or altered, or to be suspended or abolished* upon such reasonable terms and conditions as shall be prescribed by the commission.

66 P.S. § 2702(c) (emphasis supplied).

In *Delaware, Lackawanna & Western Railroad Co. v. Shuman*, the Supreme Court of Pennsylvania interpreted the plain language of Section 2702 to mean that the PUC's authority

was limited to public highway crossings. *Id.*, 115 A.2d 161, 164 (Pa. 1955). A highway is defined under the Code as “[a] way or place of whatever nature open to the use of the public *as a matter of right* for purposes of vehicular traffic.” 66 P.S. § 102 (emphasis added). Similarly, a “railroad-highway crossing” is an intersection of railroad tracks with a public highway. *See, e.g., Southeastern Pa. Transp. Auth. v. Pa. PUC*, 592 A.2d 797, 800 n.2 (“SEPTA”) (Pa. Cmwlth. 1991).

In *City of Bethlehem v. Pa. PUC*, the Commonwealth Court addressed the issue of whether or not a proposed railroad crossing was public or private. *See id.*, 627 A.2d 244 (Pa. Cmwlth. 1993). There, the court found that the PUC properly dismissed an action for lack of jurisdiction where an applicant sought to alter and upgrade railroad crossings over a private road. *Id.*, 627 A.2d at 297 (“Here, there is no public highway involved. There is no evidence in the record that the roads in question have ever been used by the public on an uninterrupted basis for any period of time.”).

Here, as in *City of Bethlehem*, the Crossing lies on a road that in the area of the crossing has been private since 1946, as explained below. Therefore, by definition, the crossing is a private crossing. This is consistent with the U.S. DOT Crossing Inventory Form, which lists the Crossing as a “private crossing.” Twp. Ex. 5.

However, unless and until the Commission grants the abolition of a crossing, it retains jurisdiction over the crossing for the purpose of imposing any conditions upon abolition in the interest of public safety. *West Penn Rys. Co. v. Pa. PUC*, 142 Pa. Super. 140, 152 (1940). Here, there is no evidence that the Commission has ever formally abolished the crossing. Therefore, it retains jurisdiction to do so at this time.

- i. The portion of Blackwood Road encompassing the Crossing became a private road on May 7, 1946, when it was vacated pursuant to an Order of the Court of Common Pleas of Schuylkill County.

Under the General Road Law, courts have the authority to vacate a portion of a public or private road. 36 P.S. § 1981. Section 1981 vests authority in county courts to “vacate the whole or any part of any private or public road which may have been laid out by authority of law, whenever the same shall become useless, inconvenient or burdensome” 36 P.S. § 1981.

Blackwood Road is an unimproved, unpaved dirt pathway that was in the past designated as Road T-567 to and through the area of the crossing at issue. See RBMN Exhibits 8a-g; Twp. Ex. 4. On May 7, 1946, the Court of Common Pleas of Schuylkill County issued a final Order vacating the portion of Blackwood Road that encompasses the railroad crossing (“Vacation Order”). The Order, which was entered into the record as the third page of Twp. Ex. 4, specifically held as follows:

AND NOW, TO WIT: MAY 7, 1946, IT IS ORDERED AND DECREED, UPON RECOMMENDATION OF THE BOARD OF VIEWERS, THAT THE FOLLOWING ROAD BE AND IS HEREBY VACATED.

ALL THAT CERTAIN LOT OR PIECE OF LAND LOCATED IN THE VILLAGE OF BLACKWOOD, REILLY TOWNSHIP, SCHUYLKILL COUNTY, PENNSYLVANIA, BOUNDED AND DESCRIBED AS FOLLOWS, TO WIT:

BEGINNING AT A POINT APPROXIMATELY THREE HUNDRED THIRTY (330) FEET EAST OF THE POINT WHERE A CERTAIN PUBLIC ROAD CROSSES AND INTERSECTS WITH THE RAILROAD TRACKS OF THE MINE HILL RAILROAD AT A DISTANCE OF FIFTY (50) FEET SOUTH OF THE SOUTHERN EDGE OF THE RIGHT-OF-WAY OF THE MINE HILL RAILROAD TRACKS; THENCE SOUTH TWENTY-SEVEN AND ONE QUARTER (27 ¼) DEGREES EAST OVER THE WOODEN BRIDGE FOR A DISTANCE OF FOUR HUNDRED (400) FEET TO A POINT; OF THE WIDTH OF THIRTY-THREE (33) FEET THROUGHOUT.

The Vacation Order begins by stating that the roadway being vacated is located in the Village of Blackwood, Reilly Township. Township Ex. 2 is denoted as a Road Map of Reilly

Township. While it does not show an initial date of publication, the Road Map has at the bottom what appear to be a number of revision dates, with the earliest being Jan. 24, 1947, which is about seven months after the Vacation Order.

The Village of Blackwood is shown within a circle in approximately the middle of Twp. Ex. 2. The call-out highlighting and amplifying this portion of the map is shown to the right of the primary Township map.

Comparing the vacation description on Twp. Ex. 4 with the Road Map, the roadway vacation begins 330 feet east of its crossing with the railroad's tracks, which can be clearly seen on the call-out on the north side of the tracks. East would be to the right with north being the top of the map. The vacation continues from the tracks for a distance of 50 feet to the southern edge of the railroad's right-of-way. It then continues in an easterly direction "over the wooden bridge" for a distance of 400 feet. The roadway has a width of 33 feet throughout.

The Report of Viewers, on the second page of Twp. Ex. 4, relates that the Township could not afford to reconstruct the bridge at this area, which was necessary for the use of Blackwood Coal Company. So the coal company agreed to reconstruct the bridge and a substitute road, which the coal company agreed would be kept open for use of the public by agreement with the Township. That agreement, in the eyes of the Court, addressed the Viewers' concerns that the requested vacation "would make a break in a regularly laid out public road."

Accordingly, the portion of Blackwood Road encompassing the subject crossing became a private road on May 7, 1946, and it matters not for present purposes that there was an agreement by the coal company to keep the roadway and bridge at the crossing area open for use

of the public. No matter what its terms may have been, both Blackwood and the Township have disavowed this agreement by their subsequent actions, as related in the section below.¹

- ii. Most of the remaining portion of Blackwood Road became private for all intents and purposes through subsequent events, including the Township's enactment of Ordinance No. 92-2 on June 23, 1992, and Blackwood's gating of the roadway.

The Second Class Township Code gives second class townships the power to vacate public roads. *See* 53 P.S. 67304. Specifically, section 2304(a) of the Second Class Township Code provides, in relevant part, that “[t]he board of supervisors may by ordinance . . . vacate . . . all roads and bridges and parts thereof which are located wholly or partially within the township.” 53 P.S. § 67304. These procedures provide the exclusive means of vacating a second-class township road. *In Re Vacation of a Portion of Paper Mill Rd., Newtown Twp.*, 294 A.3d 975, 982–83 (Pa. Cmwlth. 2023).

Reilly Township is classified as a second class township and thus section 2304(a) applies. *See* 53 P.S. § 65201. In addition to being vacated in part pursuant to the May 7, 1946, Order of Court, Blackwood Road was also vacated in its entirety by the Reilly Township Board of Supervisors by virtue of Ordinance No. 92-2.

On June 23, 1992, Reilly Township enacted Ordinance No. 92-2 setting forth a list of the roads which the Township accepted for dedication and vacating all roads not listed in the ordinance. RBMN Ex. 6 (attachment). Blackwood Road is not listed as accepted for dedication in the ordinance. Following the enactment of Ordinance No. 92-2, Blackwood Road was removed from the 2007 PennDOT Township map. PennDOT Ex. E; H.T. pg. 563, line 16 – pg.

¹ One of the reasons for the Township's later disinterest may have been that the Village of Blackwood was completely abandoned in the 1950s, following a fire, thus negating any public need for the road. H.T. 582, line 12 – 583, line 14.

564, line 1. About a third of a mile of the former T-567 was later reinstated to accommodate some housing constructed at the northern end of the former roadway at its terminus with Black Diamond Road (T-569). See Township Ex. 1.

While there was some dispute at the earlier stage of these proceedings whether the Township's enactment of Ordinance 92-2 was sufficient to vacate the remaining portion of Blackwood Road, H.T. pg. 470 – 485, subsequent events have made that point moot. Blackwood has ensured the public does not have access to Blackwood Road by erecting and maintaining a locked gate across the portion of Blackwood Road that lies north of the railroad tracks at the edge of Blackwood's property. A sign is affixed to the gate stating that the gate is owned by Blackwood. H.T. pg. 557, line 16 – pg. 558, line 9; Twp. Ex's. 6A - 6C.

Similarly, Blackwood erected and maintains a second, locked gate across Blackwood Road south of the railroad tracks. The second gate blocks the roadway on evenings and weekends. Like the first gate, the second gate is locked and a sign is affixed to the gate stating that the gate is owned by Blackwood. H.T. pg. 558, line 10 – pg. 559, line 6; Twp. Ex's. 6D - 6F.

Blackwood itself has restricted public access to Blackwood Road with permanent gates preventing the public from accessing both Blackwood Road into its property and the Crossing. Thus, Blackwood Road does not qualify as a public highway, as it is not “open to the use of the public *as a matter of right* for purposes of vehicular traffic,” per 66 P.S. § 102 (emphasis added). These facts further demonstrate that the Crossing is not public.

B. In addition, because Blackwood Road is not accessible to the public, RBMN's Application to Abolish the Crossing should be granted because the Crossing is not necessary and proper for the service, accommodation, convenience and safety of the public.

Railroad crossings fulfill the dual purpose of serving the convenience and safety of the travelling public. *See SEPTA*, 592 A.2d at 800, n. 2. The legislature's intent that rail-highway crossings be used to further the public's interests is realized through both the text of the statute and the courts' interpretation of the same.

The statutory framework under 66 P.S. § 2702 grants the PUC the authority to determine whether a crossing should be abolished and to prescribe the manner and conditions for abolition. An application to abolish a crossing may be granted where "the applicant has established [by a preponderance of the evidence] that the abolition is necessary and proper for the service, accommodation, convenience or safety of the public." *N. Lebanon Twp. v. Pa. PUC*, 962 A.2d 1237, 1244-45 (Pa. Cmwlth. 2008). An applicant meets this burden where it presents evidence that is "more convincing, by even the smallest amount, than the evidence presented by the other party." *O'Toole v. Borough of Braddock*, 155 A.2d 848, 850 (Pa. 1959).

When whether to grant an application, the PUC is not limited to any fixed rule. Rather, it may take into consideration all relevant factors to issue an order that is just and reasonable. *See Mun. of Monroeville v. Pa. PUC*, 600 A.2d 655, 657 (Pa. Cmwlth. 1991). Factors that may be considered include "traffic congestion, access for emergency responders, any impact on businesses, and the economic feasibility of the proposed change." *N. Lebanon Twp.*, 962 A.2d at 1245.

As with all public utility issues, all factors should be viewed through the lens of the public interest when considering whether to vacate a crossing. *See, e.g. Application of CSX Transportation, Inc. for Approval of the Abolition of the Crossing (Dot 140 634 g) Where*

Cemetery Ave. Crosses Above Grade the Tracks of CSX Transportation, Inc. Located in the City of Philadelphia, Philadelphia Cnty., & the Allocation of Cost Thereto, 2022 WL 356381, at *4 (Feb. 3, 2022). The “public interest” has been defined as follows: “Something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected.” *Pa. PUC v. York Water Co.*, 78 Pa. P.U.C. 87, 100-01 (1993) (citing *Black's Law Dictionary*, 4th Ed.).

Protection of private economic interests and competitive positions is not a purpose of the Public Utility Code. *See, Crown American Corp. v. Pa. PUC*, 463 A.2d 1257, 1260 (Pa. Cmwlth. 1983) (“Any economic disadvantage which may be the result of the rule is not unreasonable, because the protection of Crown's economic interest and competitive position, and those similarly situated, is neither an objective of Section 1502 *nor of the regulatory scheme of the Code in general.*”) (emphasis added).

Here, RBMN has established by a preponderance of the evidence that abolishing the Crossing is necessary and proper for the service, accommodation, convenience and safety of the public. The former crossing intersects a private road. Upon the vacation of Blackwood Road through the Crossing area, it ceased to be a public rail-highway crossing as contemplated by the Public Utility Code.

Not only does the crossing lie on a private road, it is also wholly inaccessible to the public. Blackwood erected locked gates on either side of the Crossing that prevent the public from accessing both its property and the Crossing. Even if the public could access the Crossing, Blackwood Road is in a severe state of disrepair and the Blackwood property is not safe for public access.

The Blackwood property is situated in a rural area that was in the past mined for coal north of the rail line. For about the past 15 years, the Blackwood property south of the rail line has been used for a biosolid processing operation and the area north of the rail line has been used solely for the spreading and disposal of the processed biosolids materials. H.T. pg. 613, line 7 – pg. 615, line 4; Blackwood Ex. 11. Thus, abolishing the Crossing is necessary and proper for the convenience and safety of the public because Blackwood Road is a private, gated road that is not maintained by the Township and which provides access only for private purposes.

Based on the foregoing, RBMN clearly sustained its burden of proving that abolishing the Crossing is necessary and proper for the service, accommodation, convenience and safety of the public.

C. Blackwood has failed to sustain its burden of proving that Reilly Township is responsible for denying Blackwood use of the Crossing and thus the Complaint should be denied and dismissed as to Reilly Township.

To establish a sufficient case and satisfy the burden of proof, the Complainant must show by a preponderance of the evidence that the respondent is responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pa.*, 72 Pa. P.U.C. 196 (1990).

Here, Blackwood alleges that it has been denied use of the Crossing because the Crossing was wrongfully removed by RBMN. No party, including Blackwood, has presented any evidence suggesting that the Township was somehow involved in the decision to remove the Crossing. Rather, all evidence supports the Township's averments that it had no involvement in the Crossing removal. The Township did not ask RBMN for the Crossing removal, nor was it notified or aware that the Crossing was being removed. H.T. pg. 561, line 9 – pg. 562, line 4.

Accordingly, Blackwood has failed to sustain its burden of proving that the Township's actions deprived it of the use of the Crossing. As such, the Complaint should be denied and dismissed as to Reilly Township.²

IV. CONCLUSION

In conclusion, the evidence clearly shows that the roadway in the area of the crossing has been private for almost 80 years pursuant to Court Order. While the PUC did not formally abolish the crossing at that time, it retains the jurisdiction to do so now.

Any re-establishment of the Crossing would serve only the private interests of Blackwood. It is clear that Blackwood wants the PUC to order the crossing to be re-established at the cost of RBMN and wants the Township to pay for maintenance of the road. The PUC is legally bound to abolish the crossing under the present facts showing that no public roadway traverses the Crossing. Blackwood should instead pursue its lawsuit for a private crossing from RBMN in the County Court or through negotiation.

V. PROPOSED FINDINGS OF FACT

1. Blackwood owns a parcel of land ("the Property") located in Reilly Township through which much of the former Blackwood Road is located. H.T. pg. 598, line 16 – pg. 599 line 17; Blackwood Ex. 8.

2. The Blackwood property is situated in a rural area that was in the past mined for coal north of the rail line. For about the past 15 years, the Blackwood property south of the rail line has been used for a biosolid processing operation and the area north of the rail line has been

² It is of note that Blackwood has attempted to coerce the Township into assisting it to obtain a private crossing from RBMN. Blackwood Ex. 9.

used solely for the spreading and disposal of the processed biosolids materials. H.T. pg. 613, line 7 – pg. 615, line 4; Blackwood Ex. 11.

3. RBMN owns and operates a railroad that crosses the Property into northern and southern sections. H.T. pg. 599, line 18 – pg. 600, line 11; Blackwood Ex. 8.

4. A former railroad crossing is located on the Property at the intersection of Blackwood Road (formerly Township Rt. T-567) and the rail line. Twp. Ex. 2.

5. The Crossing is listed on the U.S. DOT Crossing Inventory Form as a private crossing. Twp. Ex. 5.

6. The issue in this case is the abolition or re-establishment of the former crossing located at the intersection of RBMN's tracks with Blackwood Road.

7. The chairman of the Reilly Township Board of Supervisors estimated that the crossing was removed in 1990, unbeknownst to the Township. H.T. pg. 559, line 21 – pg. 562, line 4.

8. On May 7, 1946, a portion of Blackwood Road encompassing the Crossing area was vacated pursuant to an Order of the Schuylkill County Court of Common Pleas. H.T. pg. 553, line 7 – pg. 556, line 6; Twp. Ex. 2; Twp. Ex. 4.

9. On June 23, 1992, Reilly Township enacted Ordinance No. 92-2 setting forth a list of the roads which the Township accepted for dedication and vacating all roads not listed in the ordinance. Blackwood Road is not listed as accepted for dedication in the ordinance. RBMN Cross-Exam Ex. 10; H.T. pg. 466, line 10 – pg. 468, line 5.

10. Upon enacting Ordinance No. 92-2, Blackwood Road was removed from the 2007 PennDOT Road Map for the Township. H.T. pg. 458; PennDOT Ex. E.

11. Blackwood itself has ensured that the public does not have access to Blackwood Road by Blackwood erecting and maintaining a locked gate across Blackwood Road north of the railroad tracks. A sign is affixed to the gate stating that it is owned by Blackwood. H.T. pg. 557, line 16 – pg. 558, line 9; Twp. Ex’s. 6A - 6C.

12. Similarly, Blackwood erected and maintains a second, locked gate across Blackwood Road south of the railroad tracks. The second gate blocks the roadway on evenings and weekends. Like the first gate, the second gate is locked and a sign is affixed to the gate stating that the gate is owned by Blackwood. H.T. pg. 558, line 10 – pg. 559, line 6; Twp. Ex’s. 6D - 6F.

13. Blackwood witness Perin claims that the absence of a crossing has made it inconvenient to enter into new contracts for utilizing his land and to access his property for business purposes because he must take an alternate route to traverse his land. H.T. pg. 606, line 23 – pg. 607, line 5; pg. 613, line 5 – pg. 615, line 6.

VI. PROPOSED CONCLUSIONS OF LAW

1. The PUC’s jurisdiction in cases of railroad crossings is limited to public highway crossings. *Delaware, Lackawanna & Western Railroad Company v. Shuman, supra*, 115 A.2d at 161.

2. A highway is defined under the Code as “[a] way or place of whatever nature open to the use of the public as a matter of right for purposes of vehicular traffic.” 66 P.S. § 102.

3. A “crossing” is an intersection of a railroad’s tracks with a public roadway. *SEPTA, supra*, 592 A.2d at 800, n. 2.

4. Under the General Road Law, courts have the authority to vacate a portion of a public or private road. 36 P.S. § 1981.

5. The Second Class Township Code gives second class townships the power to vacate public roads. *See* 53 P.S. 67304.

6. An application to abolish a crossing may be granted where “the applicant has established [by a preponderance of the evidence] that the abolition is necessary and proper for the service, accommodation, convenience or safety of the public.” *N. Lebanon Twp. v. Pa. PUC*, *supra*, 962 A.2d at 1244-45.

7. In considering whether to grant an application to abolish a crossing, the PUC is not limited to any fixed rule and takes into consideration all relevant factors to issue an order that is just and reasonable. *Mun. of Monroeville v. Pa. PUC*, *supra*, 600 A.2d at 657.

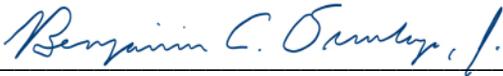
8. To establish a sufficient case and satisfy the burden of proof, the Complainant must show by a preponderance of the evidence that the respondent utility is responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pa.*, 72 Pa. P.U.C. 196 (1990).

VII. PROPOSED ORDER

1. That the rail-highway crossing where the former Blackwood Road crossed the tracks of Reading, Blue Mountain and Northern Railroad Company in Reilly Township, Schuylkill County (DOT #592 007 F) be and hereby is abolished.

Respectfully submitted,

**COHEN SEGLIAS PALLAS
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By: 

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Counsel for Reilly Township

Date: September 25, 2025

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Blackwood Inc.,	:	Docket No. C-20078010
	:	
v.	:	Filed Electronically
	:	
Reading Blue Mountain and Northern Railroad Company	:	
	:	
	:	
Application for Approval of the Abolition of the Crossing where Township Route T-567 crosses at grade the tracks of Reading, Blue Mountain and Northern Railroad Company, located in Reilly Township, Schuylkill County	:	Docket No. A-2008-2016324
	:	
	:	Filed Electronically
	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing Brief of Reilly Township in the above-captioned proceeding this day via electronic mail addressed to the following:

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Benjamin C. Dunlap, Jr., Esquire

Date: September 25, 2025