



Benjamin C. Dunlap Jr.
Partner

240 North Third Street
7th Floor
Harrisburg, PA 17101
T: 717.234.5530 | D: (717) 480-5303
bdunlap@cohenseglia.com
www.cohenseglia.com

January 16, 2026

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 of Reading Blue Mountain and Northern Railroad Company for
Approval of the Abolition of the Crossing (AAR 592 007 F) 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 Reilly Township's Reply to Blackwood, Inc.'s Exceptions to the Recommended Decision of ALJ F. Joseph Brady 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 of Reading Blue Mountain and Northern Railroad Company for Approval of the Abolition of the Crossing (AAR 592 007 F) 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

**REILLY TOWNSHIP’S REPLY TO BLACKWOOD, INC.’S EXCEPTIONS TO THE
RECOMMENDED DECISION OF ALJ F. JOSEPH BRADY**

Reilly Township, by and through its undersigned counsel, hereby submits the following Reply to the Exceptions of Blackwood, Inc. (“Blackwood”), filed on January 6, 2026, to the Recommended Decision of Administrative Law Judge F. Joseph Brady, and avers in support of its response to each of the exceptions restated below as follows:

Reply to Exception No. 1: To the Finding that the physical infrastructure of the Crossing was removed by an unknown actor prior to RBMN’s purchase of the railroad tracks in 1990. (Recommended Decision, p. 9, Finding of Fact No. 11).

Under the present stance of this case, it is irrelevant who may have removed the crossing infrastructure. No public use of or need for the crossing has been demonstrated, pursuant to which identifying the person or party having removed the crossing may be relevant to the obligation to reconstruct it. However, the evidence demonstrates that the roadway to the crossing on both sides is in poor condition, has been barricaded by Blackwood and is used only

by Blackwood and its licensees. No current public use of or need for the crossing has been shown. It is those current facts which are important to the proper resolution of these matters.

Furthermore, Blackwood submitted no credible evidence of who did remove the crossing to counter this finding of fact. It submits only its allegation that “RBMN most likely removed the infrastructure,” based on some circumstantial evidence.¹ Therefore, Blackwood’s Exception No. 1 should be denied.

Reply to Exception No. 2: To the Finding that the portion of T-567/Blackwood Road encompassing the Crossing was vacated on May 7, 1946, pursuant to an Order of the Court of Common Pleas of Schuylkill County. (Recommended Decision, p. 9, Finding of Fact No. 13).

There are several problems with Blackwood’s argument that there was “no evidence presented by either party that the portion of T-567 vacated in 1946 remains vacated and that it is the same portion as the Crossing.” First, a comparison of the language in the May 7, 1946, Vacation Order, which is Township Ex. 4, with the Road Map of Reilly Township having a date of January 24, 1947, which is Township Ex. 2, shows that the portion of T-567 encompassing both the railway crossing and a washed-out bridge to its south were included in the Vacation Order. This is explained in detail on pages 6-8 of Reilly Township’s Main Brief, which are incorporated herein by reference. Blackwood claims there was a later Order reinstating the roadway, but has submitted no such Order into evidence.

Blackwood argues that because its predecessor in title, Blackwood Coal Company, took over ownership and maintenance of the road, and agreed to keep it open for public use, that it remained a public road. However, it is axiomatic that a public road cannot be owned by a private

¹ In any event, there is no evidence, or even an allegation, that Reilly Township had any part in the removal of the crossing.

entity. While a private entity can choose to keep a private road open for public use, it can also choose to close off use of the roadway by the public, as did Blackwood here by barricading the roadway.

Finally, Blackwood quotes out of context a portion of the testimony of Township Supervisor Robert Butensky in support of its argument that the 1946 Vacation Order maintained the public character of T-567. In that exchange, Mr. Butensky was questioned “as to what the Court did in 1946?” He responds, “To me, it would say that they did maintain that – that section of the roadway and the railroad crossing.” (N.T. 8/7/25 – p. 556, lines 2-6). Looking at Mr. Butensky’s full response seems to refer to “they” as Blackwood Coal Company maintaining “that section of the roadway and the railroad crossing,” not to the Court’s decision itself, as Blackwood states.

Even if Mr. Butensky were referring to the Court’s decision, however, it would have no bearing as an expert opinion, as Mr. Butensky is not an attorney and so not qualified to render legal opinions. The documentary evidence submitted by Reilly Township strongly supports Finding of Fact No. 13 on its own, and therefore Blackwood’s Exception No. 2 should be dismissed.

Reply to Exception No. 3: To the Finding that Reilly Township enacted an ordinance purporting to vacate the entirety of T-567/Blackwood Road on June 23, 1992. (Recommended Decision, p. 9, Finding of Fact No. 14).

Finding of Fact No. 14 states that Reilly Township enacted an ordinance “purporting,” or intending, to vacate the entirety of T-567 in 1992. It matters not for the accuracy of the Finding of Fact whether the ordinance was effective or not, which is the core of Blackwood’s argument in this exception. Furthermore, because the evidence clearly shows that the area of the crossing

was vacated in 1946, as discussed in Reilly Township's Reply to Exception No. 2, it is irrelevant for the purposes of this proceeding whether the entire roadway was vacated.

Therefore, while Finding of Fact No. 14 may be irrelevant to this proceeding, but is not inaccurate, Blackwood's Exception No. 3 should be dismissed.

Reply to Exception No. 4: To the Finding that the portion of T-567/Blackwood Road encompassing the Crossing is not maintained for general public use and is impassable on both sides of the Crossing. (Recommended Decision, p. 9, Finding of Fact No. 15).

The record contains ample evidence that the portion of T-567 encompassing the crossing is not maintained for general public use and is impassable on both sides of the crossing, as cited by ALJ Brady in this Finding of Fact. See also Reilly Township Main Brief, pgs. 10-12, which are incorporated herein by reference.

While Blackwood refers to its own usage of the roadway, the primary purpose of this exception appears to be Blackwood's desire to place blame for the admittedly poor condition of the current roadway. As its arguments do not dispute the substantive accuracy of this finding of fact, its exception has no merit and should be dismissed.

Reply to Exception No. 5: The ALJ erroneously interpreted the precise nature of the dispute. (Recommended Decision, p. 16).

In arguing that ALJ Brady has misinterpreted "the precise nature of the dispute," Blackwood makes the curious statement that "[a]lthough reconstruction is the ultimate relief Blackwood is seeking, this matter is not a simple petition to have a crossing reinstalled." It is instead "about RBMN's unilateral decision to abolish a crossing without PUC authority."

Blackwood makes this claim in spite of the fact that RBMN filed an application to formally abolish the crossing in 2008. But RBMN then "prejudiciously delayed the proceeding for almost twenty years," even though Blackwood admits on page 8 of its Exceptions that it was

the party that had requested the stay. Blackwood further admits that it never requested that the stay be lifted during the subsequent time period, as it could have done.

Blackwood then explains its construction of gates shutting off access to the entire roadway on its property “to prevent vehicles driving up to a dead end created by the railroad.” This seemingly public-spirited explanation is contrary to the warnings of the signage Blackwood installed at its barricades warning against travel onto private property via the former T-567/Blackwood Road. See Township Ex. 6a-6d.

Blackwood’s gripe with ALJ Brady’s analysis is really about his conclusion that abolition of the crossing under the present circumstances is in the public interest. ALJ Brady examined the evidence that the roadway has not be used by the public in decades and so is not necessary, it is cut off from public usage by Blackwood’s barricades, and the only entities that would be benefitted by reconstruction of the crossing and roadway would be Blackwood and its licensees. See Recommended Decision, pgs. 16-18. Therefore, both ALJ Brady’s analysis and his conclusions are valid and supported by substantial evidence, and Blackwood’s Exception No. 5 is without merit and should be dismissed.

Reply to Exception No. 6: The ALJ arbitrarily and capriciously required precedent from Blackwood while ruling with no precedent supporting the Recommended Decision. (Recommended Decision, pp. 16-17).

In its Exception No. 6, Blackwood makes the rather absurd argument that the issue of public need for the crossing should be examined under the facts as existed in 1992 when RBMN allegedly illegally abolished the crossing, rather than under present factual circumstances. Criticizing ALJ Brady for pointing out that Blackwood provided no legal authority for its position, Blackwood contends that ALJ Brady then “creates his own precedent by citing to two irrelevant decisions” for his analysis of the issue. See Blackwood Exceptions, pg. 9.

In arguing against the factual relevance of those decisions, Blackwood ignores that the two PUC cases cited on page 16 of the Recommended Decision were referenced not for their factual similarity, but for the standard to be applied in abolition cases. That standard, stated similarly in both cases, is to determine whether abolition of the crossing will “ensure and promote the protection, safety, convenience and welfare of the travelling public,” *East Broad Top Railroad*, 2002 WL 34558702 (Pa.P.U.C.), or whether abolition is “necessary and proper for the service, accommodation, convenience or safety of the public.” *Cochran’s Mill Road*, 2008 WL 5786640 (Pa.P.U.C.), citing, *Borough of Bridgewater v. Pa. PUC*, 124 A.2d 165, 172 (Pa. Super. 1956).

On pages 16-18 of the Recommended Decision, ALJ Brady examined the evidence pursuant to that standard to conclude the former T-567 crossing was not necessary in the public interest. While it was proper for ALJ Brady to examine the need for a crossing at the present time, it is notable that no complaints were filed by members of the public objecting to the crossing closure 30 years ago. Blackwood sponsored no witnesses to testify how members of the public were inconvenienced by RBMN’s alleged abolition of the crossing. Most importantly, Blackwood sponsored no witnesses from the general public or emergency responders to testify whether they would make use of the roadway and crossing today. Blackwood has no basis to carp about the lack of public input when it did not avail itself of the opportunity to provide that input.

ALJ Brady examined the relevant evidence under the proper standard and came to a conclusion supported by substantial evidence. Thus, Blackwood’s Exception No. 6 has no merit and should be dismissed.

Reply to Exception No. 7: To the Finding on p. 19 of the Recommended Decision that RBMN satisfied its burden of proof that it is in the public interest to formally recognize the abandonment of the Crossing.

Reilly Township incorporates here its Replies to Exceptions No. 5 and 6 above as well as the argument on pages 10-12 of its Main Brief. Therefore, as RBMN did satisfy its burden of proof that it was in the public interest to abolish the crossing, Blackwood's Exception No. 7 should be dismissed.

CONCLUSION

As discussed above, the PUC must formally abolish the Blackwood crossing, as the roadway on both sides of the crossing was vacated 80 years ago, divesting the Commission of further jurisdiction over the crossing. Even if the Commission retained jurisdiction to order the crossing reconstructed, it should be formally abolished as the crossing is no longer necessary and proper for the service, accommodation, convenience or safety of the public, as supported by substantial evidence. Therefore, Blackwood's Exceptions should be denied in their entirety and the Recommended Decision should be adopted by the Commission.

Respectfully submitted,

**COHEN SEGLIAS PALLAS
GREENHALL & FURMAN PC**

By: 

Benjamin C. Dunlap, Jr., Esquire
Supreme Court I.D. No. 66283
240 North 3rd Street, 7th Floor
Harrisburg, PA 17101
Telephone: (717) 480-5303
Email: bdunlap@cohenseglias.com

Counsel for Reilly Township

Date: January 16, 2026

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CERTIFICATE OF SERVICE

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

Martin J. Cerullo, Esquire
Bowe & Odorizzi Law, LLC
450 W. Market Street
P.O. Box 450
Pottsville, PA 17901
marty@boweodorizzilaw.com
Counsel for Blackwood, Inc.

Lawrence J. Moran, Jr., Esquire
Matthew Carmody, Esquire
Brendan N. Fitzgerald, Esquire
Joyce, Carmody & Moran, P.C.
9 N. Main Street, Suite 4
Pittston, PA 18640
ljm@joycecarmody.com
mjc@joycecarmody.com
bnf@joycecarmody.com
*Counsel for Reading, Blue Mountain &
Northern Railroad Company*

Thomas P. Pellish, Esquire
304 N. Centre Street
Pottsville, PA 17901
tompellesq@gmail.com
Counsel for Reilly Township

Grant Rosul, Esquire
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
grosul@pa.gov

Glenn T. Roth, Jr., Solicitor
Office of the County Solicitor
Schuylkill County Courthouse
401 North Second Street
Pottsville, PA 17901-2528
groth@co.schuylkill.pa.us

Commission's Office of Special Assistants
(OSA)
Ra-OSA@pa.gov

The Honorable F. Joseph Brady
Administrative Law Judge
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120
fbrady@pa.gov

/s/Karen L. Gagne
Karen L. Gagne Administrative Assistant to
Benjamin C. Dunlap, Jr., Esquire

Date: January 16, 2026