

# Nauman Smith

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February 3, 2016

**Via Electronic Mail**

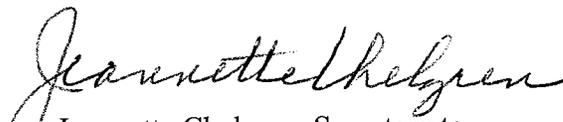
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

**RE: Application of the Department of Department of Transportation of the Commonwealth of Pennsylvania for approval to alter the public at-grade crossing by the installation of the new automatically operated flashing light crossing warning signal where South Third Street (T-559) crosses the single track of Norfolk Southern Railroad Company (DOT No: 535152B) in Guilford Township, Franklin County all in accordance with the Federal Grade Crossing Program and the allocation of costs incident thereto.  
Docket No. A-2015-2466693**

Dear Secretary Chiavetta:

I am enclosing herewith the Prehearing Conference Memorandum of Norfolk Southern Railway Company for filing in the above-referenced matter. As evidenced by the attached Certificate of Service, a copy of the Prehearing Conference Memorandum has been served on all interested parties.

Sincerely yours,



Jeannette Chelgren, Secretary to  
Benjamin C. Dunlap, Jr.

Enclosure

cc: All Interested Parties of Record  
The Honorable Stephen K. Haas, ALJ (via electronic mail)  
Timothy J. Bentley, Esquire

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of Department of	:	
Transportation of the Commonwealth of	:	
Pennsylvania for approval to alter the public	:	
at-grade crossing by the installation of the new	:	Docket No. A-2015-2466693
automatically operated flashing light crossing	:	
warning signal where South Third Street	:	Electronically Filed
(T-559) crosses the single track of Norfolk	:	
Southern Railroad Company (DOT No: 535152B)	:	
in Guilford Township, Franklin County all in	:	
accordance with the Federal Grade Crossing	:	
Program and the allocation of costs incident thereto.	:	

**NORFOLK SOUTHERN RAILWAY COMPANY'S  
PREHEARING CONFERENCE MEMORANDUM**

**I. ENTRY ON THE SERVICE LIST**

Norfolk Southern Railway Company ("Norfolk Southern") requests that all documents be served on its counsel in this matter:

Benjamin C. Dunlap, Jr., Esquire  
Nauman, Smith, Shissler & Hall, LLP  
200 N. Third Street, 18<sup>th</sup> Floor  
P. O. Box 840  
Harrisburg, PA 17108-0840  
(717) 236-3010, ext. 21  
[bdunlapjr@nssh.com](mailto:bdunlapjr@nssh.com)

**II. SETTLEMENT POSSIBILITIES**

Norfolk Southern remains open to discussing a resolution to this matter. The possibility of settlement will be very much governed by the technical aspects of this matter, as ascertained by the frequency analysis currently being conducted by General Electric for Norfolk Southern. The electric

substation located near this crossing creates frequency irregularities on the rails, which has led to intermittent problems of malfunctioning gates and lights at current crossings in the area. The addition of another crossing with gates and lights about 200 yards from current crossings on each side is expected only to exacerbate the issues.

### **III. DISCOVERY PLAN AND SCHEDULE**

Norfolk Southern agrees to cooperate with the other parties to develop a proposed plan and schedule of discovery. Norfolk Southern plans to engage in written discovery with the Township and PennDOT. Norfolk Southern has no objection to PennDOT's proposal that all discovery be completed no later than two weeks prior to the date for the submission of pre-served written direct testimony.

### **IV. LITIGATION SCHEDULE**

Norfolk Southern agrees to cooperate with the parties at the initial prehearing conference to develop a proposed litigation schedule. However, due to the estimated 60 days needed to complete Norfolk Southern's frequency analysis, the litigation schedule proposed by PennDOT in its Prehearing Conference Memorandum is unrealistic.

### **V. WITNESSES**

Norfolk Southern intends to call the following witnesses at the hearing. Norfolk Southern reserves the right to call additional or different witnesses as information is developed in preparation for the hearing.

Name: Stephen Klinger  
Title: Administrator Grade Crossing Program  
Business Address: 1200 Peachtree St., NE, Box 123, Atlanta, GA 30309  
Phone Number: (404) 529-1234  
Subject Matter of Testimony: Mr. Klinger is currently expected to discuss the background of this matter, other crossings in the area, issues in connection with the proposed crossing and cost estimate for the proposed crossing and reasons therefor.

Name: To be determined  
Title: To be determined  
Company: General Electric or Norfolk Southern  
Subject Matter of Testimony: The results of the frequency study conducted for Norfolk Southern and what will be required at the proposed crossing and other crossings in the track block to ensure safe and consistently functioning operations of the gates and lights.

Name: To be determined  
Title: To be determined  
Company: Moffet-Nichol (Traffic Engineers)  
Subject Matter of Testimony: Present direct and rebuttal testimony on current traffic flows in the area of the subject crossing, the need if any for the additional proposed crossing and its affect on traffic flows.

## **VI. ISSUES AND POSITIONS**

- A. Is the proposed crossing possible at the subject location under current conditions?  
Norfolk Southern position: To be determined as a result of the frequency analysis.
- B. Will any modifications to or closures of any adjacent crossings be necessary to accommodate the addition of the proposed crossing?  
Norfolk Southern position: To be determined as a result of Norfolk Southern's frequency analysis.
- C. Whether there is an actual need for an additional crossing as proposed?  
Norfolk Southern position: To be determined as a result of traffic studies.
- D. Who should bear the construction costs for the proposed crossing and any necessary

modifications to adjacent crossings made necessary by the proposed crossing?

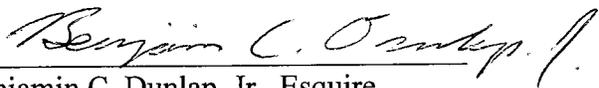
Norfolk Southern position: Norfolk Southern will not agree to bear any costs in connection with the construction of the proposed crossing, which will be substantially higher than the costs for a standard at-grade crossing due to the unique circumstances of the nearby electrical substation and other crossings with gates and lights in close proximity to the proposed crossing. All costs of construction should be borne by the Township, which is pressing for the additional crossing and will be primarily benefitted by it, as well as PennDOT which also will be benefitted by the additional crossing if constructed.

E. Who should bear the costs of future maintenance of the crossing, which will likely be higher due to more complex equipment installations and potentially higher malfunction issues?

Norfolk Southern position: All costs of future maintenance should be borne by the Township, which is pressing for the additional crossing and will be primarily benefitted by it, as well as PennDOT which

will also be benefitted by the additional crossing if  
constructed.

Respectfully submitted,  
NAUMAN, SMITH, SHISSLER & HALL, LLP

By   
Benjamin C. Dunlap, Jr., Esquire  
Supreme Court I.D. #66283

200 North Third Street, 18<sup>th</sup> Floor  
P. O. Box 840  
Harrisburg, PA 17108-0840  
717-236-3010  
Attorney for Norfolk Southern Railway Company

Date: February 3, 2016

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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(T-559) crosses the single track of Norfolk	:	
Southern Railroad Company (DOT No: 535152B)	:	
in Guilford Township, Franklin County all in	:	
accordance with the Federal Grade Crossing	:	
Program and the allocation of costs incident thereto.	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing Prehearing Conference Memorandum on behalf of Norfolk Southern Railway Company, in the above action, this day in the manner indicated below:

**VIA Electronic Mail/Confirmed via  
U.S. Mail:**

Stephen K. Haas  
Administrative Law Judge  
PA Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265  
Email: sthaas@pa.gov

Scott T. Wyland, Esquire  
Salzmann Hughes, P.C.  
105 N. Front Street, Suite 205  
Harrisburg, PA 17101  
Email: swyland@salzmannhughes.com

Gina M. D'Alfonso, Esquire  
Office of Chief Counsel  
PennDOT  
P. O. Box 8212  
Harrisburg, PA 17105-8212  
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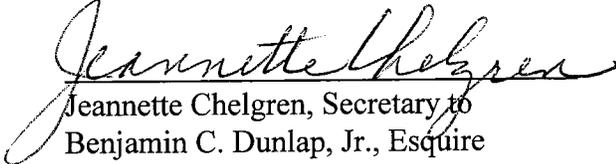
**Via U.S. First Class Mail:**

Henry Dan  
First Energy  
800 Cabin Hill Drive  
Greensburg, PA 15601

Mary Beth Shank, Esquire  
Franklin County Solicitor  
Commissioners' Complex  
14 North Main Street  
Chambersburg, PA 17201-1824

Shelly Bard  
Century Link  
250 Lincoln Way East  
P. O. Box 429\  
Chambersburg, PA 17201

Date: February 3, 2016

  
Jeannette Chelgren, Secretary to  
Benjamin C. Dunlap, Jr., Esquire