

May 14, 2020

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17015-3265

In Re: Application of the 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: 535 152 B) in Guilford Township, Franklin County all in accordance with the Federal Grade Crossing Program and the Allocation of costs incident thereto. PUC Docket No. A-2015-2466693

Dear Secretary Chiavetta:

Enclosed please find a Joint Petition for Settlement and related Statements in Support of the Joint Petition for Settlement for filing in the above-referenced matter. In accordance with the accompanying Certificate of Service, we are serving a copy of the Settlement and related Statements in Support on all parties of record.

If you have any questions, please feel free to contact me.

Very truly yours,



Scott T. Wyland

Enclosure

Cc: The Honorable Stephen K. Haas, ALJ
Kayla Rost, Esquire
Gina M. D'Alfonso, Esquire
Benjamin C. Dunlap, Jr., Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the 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	:	A-2015-2466693
single track of Norfolk Southern Railroad	:	
Company (DOT No: 535 152 B) in Guilford	:	
Township, Franklin County all in accordance with	:	Filed Electronically
the Federal Grade Crossing Program and the	:	
Allocation of costs incident thereto	:	

JOINT PETITION FOR SETTLEMENT

I. PROCEDURAL HISTORY

1. This proceeding concerns an at-grade crossing where T-559 (South Third Street) crosses a single track of Norfolk Southern Railroad Company (DOT No: 535 152 B) in Guilford Township, Franklin County, Pennsylvania (the “Township”), referred to herein as the “Crossing.”

2. On or about February 4, 2015, the Pennsylvania Department of Transportation (“PennDOT”) filed an application seeking approval to alter the at-grade Crossing by the installation of new automatically operated flashing-light crossing warning signals and for the allocation of all costs incident thereto.

3. A field conference was held on September 29, 2015, and subsequent conference calls between the parties were held on October 20, 2015, and November 18, 2015.

4. During the field conference, the parties were unable to reach a mutually acceptable resolution of the issues related to the Crossing.

5. The Commission thereafter referred the proceeding to the Commission’s Office of Administrative Law Judge for the scheduling of an evidentiary hearing.

6. A Prehearing Conference was held on February 4, 2016, attended by counsel for Norfolk Southern Railway Company (“Norfolk Southern”), Guilford Township (the “Township”), PennDOT, and the Commission’s Bureau of Investigation and Enforcement (“BI&E”).

7. Following the Prehearing Conference, this matter was referred to the Commission’s Mediation Unit upon agreement of the parties.

8. The parties were initially unable to resolve the issues involved through proceedings before the Commission’s Mediation Unit.

9. Thereafter, the parties engaged in amicable negotiations to address the concerns raised in this matter and to achieve terms of resolution acceptable to all parties for the benefit of the public.

10. The parties have now agreed to settlement terms in this proceeding and now submit this Joint Petition for Settlement (“Petition”).

II. STIPULATED FACTS

1. The Crossing is an at-grade crossing where South Third Street (T-559) crosses a single track of Norfolk Southern’s railway line (DOT No: 535 152 B) in the Township.

2. PennDOT filed an Application seeking approval to alter the Crossing by replacing the existing cross bucks with new automatically operated flashing-light warning signals with short arm gates.

3. Upon a field review, inspections, and engineering input from Norfolk Southern, and during the course of discovery in this matter, it was determined that the improvements initially identified by PennDOT were not feasible due to potential conflicts that might arise from electrical and/or electromagnetic interference from a nearby substation.

4. The parties subsequently analyzed alternative measures to reduce hazards and increase public safety at the Crossing.

5. The parties agreed that certain work must be undertaken to reduce hazards and increase safety at the Crossing.

6. Specifically, the parties agreed that the Township will undertake the following remedial measures at the crossing:

- a. Installing thermoplastic rumble strips approaching the Crossing;
- b. Enhancing existing stop signs at the Crossing by: (i) installing bracketed (left and right side of roadway), 36" X 36" conventional road, multi-lane stop signs for both approaches; (ii) installing red reflective tape on all stop sign masts; and (iii) providing advance warning of the Crossing by installing two (2) alternately flashing solar-powered circular yellow warning beacons attached to the existing stop ahead sign mast which will require a permit from PennDOT. That this work shall all be in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).
- c. Maintaining the rumble strips and stop sign enhancements described in Paragraphs 6.a. and 6.b. above, and energizing and maintaining the warning beacons at its sole cost and expense.

7. The parties further agreed that Norfolk Southern shall be responsible to maintain, inspect, and repair the Crossing surface, and shall keep the right of way at the Crossing clear on an ongoing basis in accordance with 66 Pa.C.S. § 2702(b) at its sole cost and expense.

8. Finally, the parties agreed that Section 130 funds will be used to reimburse the Township for its costs in performing the work agreed upon above.

9. The Township's remedial work, upon completion, will reduce hazards and increase public safety at the Crossing.

III. PROPOSED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the parties to this proceeding. 66 Pa.C.S. §§ 2702 and 2704.

2. The Commission has the authority to order the construction, reconstruction, alteration, relocation, repair, maintenance, protection, suspension or abolition of railroad crossings, and the authority to determine and order which concerned parties should perform such work, in order to prevent accidents and promote the safety of the public. 66 Pa.C.S. §§ 2702 and 2704.

3. The Township, Norfolk Southern, PennDOT, and BI&E are all concerned parties within the meaning of 66 Pa.C.S. §§ 2702 and 2704.

4. "It is the policy of the Commission to encourage settlements." 52 Pa. Code § 5.231(a).

5. The Joint Petition for Settlement is in the public interest as its terms provide for the protection of the public safety with respect to the Crossing.

IV. SETTLEMENT TERMS

Pursuant to Sections 507 (relating to "Contracts between public utilities and municipalities") and 2702 (relating to "Construction, relocation, suspension and abolition of crossings") of the Pennsylvania Public Utility Code ("Code"), 66 Pa.C.S. §§ 507 and 2702, the undersigned parties to this proceeding agree in this Joint Petition for Settlement as follows:

1. The parties, by the signatures of their representatives below, stipulate to the facts as presented in the Stipulated Facts within this Petition for Settlement.

2. The parties agree to perform the responsibilities as specified herein in a combined effort to reduce hazards and increase safety at the Crossing.

3. The Township's responsibilities and share of costs associated with the combined effort shall be as specified herein. The Township may use Section 130 funds for said costs as accepted herein. The Township shall:

a. Install thermoplastic rumble strips approaching the Crossing.

b. Enhancing existing stop signs at the Crossing by: (i) installing bracketed (left and right side of roadway), 36" X 36" conventional road, multi-lane stop signs for both approaches; (ii) installing red reflective tape on all stop sign masts; and (iii) providing advance warning of the Crossing by installing two (2) alternately flashing solar-powered circular yellow warning beacons attached to the existing stop ahead sign mast which will require a permit from PennDOT. This work shall all be in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).

c. Maintain the rumble strips and stop sign enhancements described in Paragraphs 3a. and 3.b. above, and energize and maintain the warning beacons at its sole cost and expense.

4. Norfolk Southern shall be responsible to maintain, inspect, and repair the Crossing surface, and shall keep the right of way at the Crossing clear on an ongoing basis in accordance with 66 Pa.C.S. § 2702(b) at its sole cost and expense.

5. PennDOT shall:

- a. Reimburse the Township for its costs incurred in performing the work specified in Paragraph 3, subsections a and b above utilizing Section 130 funds.
- b. Upon receipt of the Application for Permit to Install and Operate Flashing Warning Devices for the warning beacons referred to in Paragraph 3(b) of this Stipulation, PennDOT will commit to processing the Application in a timely manner at its sole expense.

6. The parties shall coordinate in good faith to determine any other cost sharing that may become necessary as work progresses.

7. All work will be completed by September 30, 2020, unless another date is agreed to by the parties.

8. Subject to the parties' right to withdraw from this Joint Petition for Settlement pursuant to Paragraph 11, the parties hereto agree to abide by the work responsibilities and financial obligations delineated in this Joint Petition for Settlement.

9. This Joint Petition for Settlement is contingent upon its approval pursuant to Sections 507 and 2702 of the Code and the issuance of a Commission Secretarial Letter or Order accepting and approving the same.

10. Due to the current restrictions caused by COVID -19 and safety issues existing at the subject crossing, the parties respectfully request that the Joint Petition for Settlement be remanded to the Commission's Bureau of Technical Utility Services for the issuance of a Secretarial Letter in lieu of an ALJ decision. The terms of the Joint Petition are time sensitive and the work to be completed should be expedited to protect the public.

11. The parties agree that any party may petition the Commission for rehearing if the Commission Secretarial Letter or Order substantively modifies the terms of this Joint Petition for

Settlement. In that event, any party may give notice to the other parties that it is withdrawing from this Joint Petition for Settlement. Such notice must be in writing and must be given within twenty (20) business days of the issuance of any Initial or Recommended Decision or any Commission Order or Secretarial Letter which adopts this Joint Petition for Settlement with substantive modifications of its terms. The consequence of any party withdrawing from this Joint Petition for Settlement as set forth above is that all issues associated with the requested relief presented in the proceeding will be fully litigated unless otherwise stipulated between the parties and all obligations of the parties as set forth above to each other are terminated and of no force and effect.

12. The parties executing this Joint Petition for Settlement agree that its purpose is to act as a General Release, except as specifically noted within, and is to settle, compromise and release all claims, actions, suits and rights whatsoever existing between and on behalf of those respective parties as set forth above, their successors and assigns, including all such claims, actions, suits and rights whatsoever; whether known or unknown to those parties, except to enforce the terms of this Joint Petition for Settlement. Nothing herein shall be construed as a waiver by the Commission of its duty to inspect, investigate, and enforce the safety of the Crossing after the date of this Joint Petition for Settlement. In the event that the Commission subsequently determines, in its sole discretion, that the Crossing is unsafe, it retains its full ability to act as appropriate to ensure the public safety.

13. The benefits and obligations of this Joint Petition for Settlement shall be binding upon the successors and assigns of the parties to this Stipulation.

This Stipulation may be signed in counterparts and all signatures attached hereto will be considered as originals.

V. PROPOSED ORDER

In order to effectuate the parties' Joint Petition for Settlement, the undersigned parties request that the Commission issue a Secretarial Letter or Order in substantially the following form. The Commission will serve the public interest by adopting this Stipulation. The Joint Petition for Settlement will save the parties the time and expense they would incur further litigating this matter before the Commission. Since all of the parties agree to the terms of the Joint Petition for Settlement, adopting it will eliminate the possibility of any appeal from the Commission Secretarial Letter or Order, thus saving the parties the additional time and expense they might incur in such an appeal. Adopting this Joint Petition for Settlement will further the statutory provisions of 66 Pa.C.S. § 2702 *et seq.*, in regard to the public convenience and safety, and further the Commission policy of encouraging settlements. 52 Pa. Code § 5.231(a). The parties hereto therefore request that the Commission adopt the following ordering paragraphs in accordance with the Joint Petition for Settlement of the parties and in furtherance of the public interest and safety:

1. That the Joint Petition for Settlement in this proceeding is hereby approved and adopted.
2. That this Order is without prejudice to the right of any party to enforce any lawful agreement allocating costs among the parties.
3. That the Township's responsibilities and share of costs associated with the combined effort of the parties to reduce hazards and increase safety at the Crossing shall be as follows. The Township may use Section 130 funds for said costs as accepted herein. The Township shall:
 - a. Install thermoplastic rumble strips approaching the Crossing.

- b. Enhancing existing stop signs at the Crossing by: (i) installing bracketed (left and right side of roadway), 36" X 36" conventional road, multi-lane stop signs for both approaches; (ii) installing red reflective tape on all stop sign masts; and (iii) providing advance warning of the Crossing by installing two (2) alternately flashing solar-powered circular yellow warning beacons attached to the existing stop ahead sign mast which will require a permit from PennDOT. This work shall all be in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).
- c. Maintain the rumble strips and stop sign enhancements described in Paragraphs 3a. and 3.b. above, and energize and maintain the warning beacons at its sole cost and expense.

4. That Norfolk Southern shall maintain, inspect, and repair the Crossing surface, and shall keep the right of way at the Crossing clear on an ongoing basis in accordance with 66 Pa.C.S. § 2702(b) at its sole cost and expense.

5. That PennDOT shall:

- a. Reimburse the Township for its costs incurred in performing the work specified in Paragraph 3, subsections a and b of this Order utilizing Section 130 funds.
- b. Upon receipt of the Application for Permit to Install and Operate Flashing Warning Devices for the warning beacons referred to in Paragraph 3(b) of this Order, PennDOT will commit to processing the Application in a timely manner at its sole expense.

6. That all work will be completed by September 30, 2020, unless another date is agreed to by the parties.

7. All costs which are to be reimbursed by the Department of Transportation consistent with this Order, shall be reimbursed pursuant to the provisions of 23 CFR Parts 140 and 646. The aforesaid federal reimbursement shall not supersede, delay or, in any manner, postpone the effect of any paragraph contained in this or any related Secretarial Letter or Order.

8. Upon completion of the alteration of the crossing, Norfolk Southern Railway Company shall, at its sole cost and expense, in addition to the obligations set forth in Ordering Paragraph 4, furnish all material and do all work necessary thereafter to maintain its railroad facilities at the subject crossings, including the crossbuck signs and to maintain at all times in a smooth and satisfactory condition, the railroad crossing surface for a distance of twenty-four (24) inches beyond each outside rail, all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices, 66 Pa.C.S. § 2702(b), and this Order.

9. Upon completion of the alteration of the crossing, Guilford Township shall, at its sole cost and expense, in addition to the obligations set forth in Ordering Paragraph 3, furnish all material and do all work necessary thereafter to maintain the highway approaches to the subject crossing, up to a distance of twenty-four (24) inches beyond the outermost rails, and in addition, maintain all highway-rail grade crossing advance warning signs, stop lines and pavement markings, as required, on the approaches thereto all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Order.

10. Due to the current restrictions caused by COVID -19 and safety issues existing at the subject crossing, the Joint Petition for Settlement shall be remanded to the Commission's Bureau of Technical Utility Services for the issuance of a Secretarial Letter in lieu of an ALJ

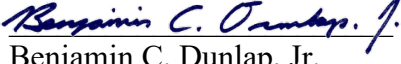
decision. The terms of the Joint Petition are time sensitive and the work to be completed should be expedited to protect the public.

11. Upon completion of the project, the parties agree to provide written notice to Rail Safety. Rail Safety shall within thirty days complete a final inspection to determine if the work was completed as specified in this order.


12. If the work is found to have been completed as specified in this order, Rail Safety shall issue a Secretarial Letter closing the matter.

[SIGNATURE PAGE TO FOLLOW]

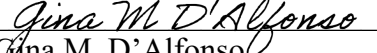
Date: May 6, 2020


Benjamin C. Dunlap, Jr.
*Counsel for Norfolk Southern
Railway Company*


Date: May 7, 2020


Scott T. Wyland
Counsel for Guilford Township

Date: May 6, 2020


Gina M. D'Alfonso
*Counsel for the Commonwealth of
Pennsylvania, Department of Transportation*

Date: May 6, 2020


Kayla L. Rost
*Counsel for the Commission's Bureau of
Investigation and Enforcement*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the 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 : A-2015-2466693
single track of Norfolk Southern Railroad :
Company (DOT No: 535 152 B) in Guilford :
Township, Franklin County all in accordance with :
the Federal Grade Crossing Program and the :
Allocation of costs incident thereto :


**COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF
TRANSPORTATION’S STATEMENT IN SUPPORT OF THE JOINT PETITION FOR
SETTLEMENT**

The Pennsylvania Public Utility Commission (“Commission”) will serve the public interest by adopting the Joint Petition for Settlement in the above captioned matter. The settlement will save the parties the time and expense that would be incurred in litigating this matter before the Commission. Since all the signatory parties agree to the terms of the settlement, adopting it will eliminate the possibility of an appeal from the Commission Secretarial Letter or Order, thus saving the signatory parties the additional time and expense that might be incurred in such an appeal. Adopting this settlement will further the statutory provisions of 66 Pa. C.S. § 2702 *et seq.*, regarding the public convenience and safety.

This settlement is in the public interest because it promotes the safety and welfare of the public. The Commission’s paramount goals in regulating crossings are to prevent accidents and promote public safety. 66 Pa. C.S. § 2702 (b). Due to the potential conflicts from electrical and/or electromagnetic interference at this location, the improvement proposed by PennDOT its application was not feasible. The settlement in this matter ensures that the existing at-grade crossing will be modified to improve the safety at the at-grade crossing.

For all of the above reasons, the Department of Transportation respectfully requests that the Joint Petition for Settlement in the above matter be approved and that the matter be resolved by the adoption of the terms outlined in the Joint Petition for Settlement.

Respectfully submitted,


Gina M. D'Alfonso
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Office of Chief Counsel
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Harrisburg, PA 17105-8212
Telephone No.: 717/787-3128
Fax No.: 717/772-2741
gdalfonso@pa.gov

DATED: May 13, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of Transportation :
of the Commonwealth of Pennsylvania :
for approval to alter the public at-grade crossing :
by the installation of the new automatically :
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where South Third Street (T-559) crosses the : A-2015-2466693
single track of Norfolk Southern Railroad :
Company (DOT No: 535 152 B) 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 Statement in Support

The Pennsylvania Public Utility Commission (“Commission”) will serve the public interest by adopting the Joint Petition for Settlement in the above captioned matter. The settlement will save the parties the time and expense that would be incurred in litigating this matter before the Commission. Since all the signatory parties agree to the terms of the settlement, adopting it will eliminate the possibility of an appeal from the Commission Secretarial Letter or Order, thus saving the signatory parties the additional time and expense that might be incurred in such an appeal. Adopting this settlement will further the statutory provisions of 66 Pa. C.S. § 2702 *et seq.*, regarding the public convenience and safety.

This settlement is in the public interest because it promotes the safety and welfare of the public. The Commission’s paramount goals in regulating crossings are to prevent accidents and promote public safety. 66 Pa. C.S. § 2702(b). Due conflicts from electrical and/or electromagnetic interference at this location, the improvement proposed by PennDOT in its application was not feasible. The settlement eventually reached was the result of extensive negotiations among the parties with the goal of improving safety at the crossing. The settlement ensures that the existing at-grade crossing will be modified to improve safety at the at-grade crossing.

For all the above reasons, Norfolk Southern Railway Company respectfully requests that the Joint Petition for Settlement in the above matter be approved and that the matter be resolved by the adoption of the terms outlined in the Joint Petition for Settlement.

Respectfully submitted,

NAUMAN SMITH SHISSLER & HALL, LLP

By: *Benjamin C. Dunlap, Jr.*

Benjamin C. Dunlap, Jr., Esquire

PA I.D. 66283

Nauman, Smith, Shissler & Hall, LLP

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Harrisburg, PA 17108

Phone: 717.236.3010, Ext. 121

Email: bdunlapjr@nssh.com

Attorneys for Norfolk Southern Railway Company

Dated May 14, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**STATEMENT OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT
IN SUPPORT OF JOINT PETITION FOR SETTLEMENT**

The Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement (“I&E”) offers this Statement in Support of the Joint Petition for Settlement in the above-captioned matter pursuant to 52 Pa. Code § 5.232(b).

The Commission possesses exclusive authority in the Commonwealth to order the construction, alteration, protection, suspension, or abolition of a rail-highway crossing, as well as the exclusive authority to determine and order which parties should perform such work at the crossing and which parties must maintain the crossing in the future, all to effectuate the prevention of accidents and promote the public safety. 66 Pa.C.S. §§ 2702, 2704. “It is the policy of the Commission to encourage settlements.” 52 Pa. Code § 5.231(a). The Commission has stated that “it is not [its] intention to require a hearing if one is not necessary . . . [t]he parties may file a joint petition for settlement.” *Yellow Dog Road*, Docket No. I-2014-2405193 (Order entered May 17, 2018). “Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve

administrative hearing resources and are often preferable to those achieved at the conclusion of a fully-litigated proceeding.” *Hamill Road*, Docket No. A-2011-2258876 (Recommended Decision dated July 29, 2014; Order dated Sept. 11, 2014); *see also* 52 Pa. Code § 69.401.

The Commission must review proposed settlements to determine whether the terms are in the public interest. *Pa. PUC v Philadelphia Gas Works*, Docket No. M-00031768 (Order entered January 7, 2004); *Pennsylvania Public Utility Commission v. C.S. Water and Sewer Associates*, 74 Pa. P.U.C. 767 (1991). In a rail proceeding, “the basis for the Commission’s action is the public interest, and the standard to be applied is ‘the prevention of accidents and the promotion of the safety of the public.’” *Pittsburgh R. Co. v. Pennsylvania Public Utility Com.*, 182 A.2d 80, 84 (Pa. Super. 1962) (citing *Pennsylvania Railroad Co. v. Pa. P.U.C.*, 35 A.2d 588 (Pa. Super. 1944)).

This settlement is the result of a successful negotiation among all interested parties and resolves concerns raised in the application of the Department of Transportation of the Commonwealth of Pennsylvania (“PennDOT”) 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 Rail Company (DOT No: 535 152 B) in Guilford Township, Franklin County all in accordance with the Federal Grade Crossing Program and the allocation of costs incident thereto, as well as the assignment of responsibilities for future maintenance of the rail crossing and associated facilities.

On January 29, 2015, PennDOT filed an application seeking approval to alter the at-grade crossing by the installation of new automatically operated flashing-light crossing

warning signals and for the allocation of all costs incident thereto. Receipt of PennDOT's application by the Commission was confirmed by Secretarial Letter dated February 10, 2015.

A field conference was held on September 29, 2015, and subsequent conference calls between the parties were held on October 20, 2015, and November 18, 2015. The parties were unable to arrive at a mutually acceptable resolution of this matter during these meetings.

By letter dated December 3, 2015, the proceeding was referred to the Office of Administrative Law Judge (OALJ) for the scheduling of an evidentiary hearing. On February 4, 2016, a Prehearing Conference was held by Administrative Law Judge Stephen K. Haas. Norfolk Southern Railway Company ("Norfolk Southern" or "NS"), Guilford Township (the "Township"), Franklin County (the "County"), PennDOT, and I&E were in attendance.

On May 19, 2016, PennDOT submitted a letter requesting that litigation be held in abeyance and the case referred to the Mediation Unit to allow the parties to discuss settlement. On June 8, 2016, ALJ Haas granted the request and referred the proceeding to the Mediation Unit.

The parties participated in mediation on October 20, 2016, December 14, 2016, and September 25, 2017, but were unable to reach an amicable resolution of this case. The parties continued to discuss settlement to address the concerns raised in this matter and have now agreed to the settlement terms provided below.

The Township agrees to:

1. Install thermoplastic rumble strips approaching the crossing
2. Enhance existing stop signs at the crossing by:

- a.) Installing bracketed (left and right side of roadway), 36" X 36" conventional road, multi-lane stop signs for both approaches;
- b.) Installing red reflective tape on all stop sign masts; and
- c.) Providing advance warning of the crossing by installing two (2) alternately flashing solar-powered circular yellow warning beacons attached to the existing stop ahead sign mast which will require a permit from PennDOT.
- d.) All work will be in accordance with the Manual on Uniform Traffic Control Devices.

- 3. Maintain the rumble strips and stop sign enhancements described in 6.a. and 6.b. above, and energizing and maintaining the solar-powered circular yellow warning beacons as its sole cost and expense.

Norfolk Southern agrees to remain responsible to maintain, inspect, and repair the crossing surface, and shall keep the right of way at the crossing clear on an ongoing basis in accordance with 66 Pa.C.S. § 2702(b) at its sole cost and expense.

The parties agree that Section 130 funds will be used to reimburse the Township for its costs performing the work agreed upon above. PennDOT agrees to timely process the Township's application for Permit to Install and Operate Flashing Warning Devices.

All work will be completed by September 30, 2020.

The settlement will save the parties the time and expense they would otherwise incur in further litigating this matter before the Commission. Since all parties agree to the terms of the settlement, adopting it will eliminate the possibility of any appeal from a Commission

Order. This settlement is the most cost-effective solution for all interested parties and resolves all the parties' outstanding issues.

The enhanced features to be implemented pursuant to the terms of this settlement address the safety concerns to the satisfaction of I&E. I&E therefore submits that the Commission will serve the public interest by adopting and granting this Joint Petition for Settlement as its terms provide for the enhanced protection of the public's safety with respect to the crossing.

Respectfully submitted,



Kayla L. Rost
Prosecutor
PA Attorney ID No. 322768

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
Phone: (717) 787-1888
Email: karost@pa.gov

Dated: May 13, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of Transportation	:	
of the Commonwealth of Pennsylvania	:	
for approval to alter the public at-grade crossing	:	
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where South Third Street (T-559) crosses the	:	A-2015-2466693
single track of Norfolk Southern Railroad	:	
Company (DOT No: 535 152 B) in Guilford	:	
Township, Franklin County all in accordance with	:	
the Federal Grade Crossing Program and the	:	
Allocation of costs incident thereto	:	

**STATEMENT OF GUILFORD TOWNSHIP
IN SUPPORT OF THE JOINT PETITION FOR SETTLEMENT**

Guilford Township (the “Township”) concurs in the position of other parties to this proceeding that the Joint Petition for Settlement will serve the public interest. The settlement avoids the time and expense involved in litigation and eliminates the possibility of an appeal from any Commission Order. The settlement will serve to protect the public safety, as rumble strips will be installed at the subject crossing, and stop signs will be enhanced by: installing bracketed 36” X 36” conventional road, multi-lane stop signs on both approaches; adding reflective tape on all stop sign masts; and installing solar powered circular yellow warning beacons to the existing stop ahead sign mast. This settlement is in the public interest because it promotes the safety and welfare of the public, which is paramount to the goals of the Commission in regulating crossings to prevent accidents and promote public safety generally. 66 Pa.C.S. § 2702(b).

This settlement is the product of lengthy and successful negotiations among all interested parties. Furthermore, the settlement is in the best interests of the Township. The Township has attained certainty regarding the cost of the settlement with its joint applicants. As with the balance


of the parties in this case, this settlement will save the Township time and expense that it would otherwise incur in further litigating this matter.

For all of the above reasons, the Township requests that the Joint Petition for Settlement in the above matter be approved and that the matter be resolved by the adoption of the terms outlined in the Joint Petition for Settlement.

Respectfully submitted,

SALZMANN HUGHES, P.C.

Dated: May 14, 2020

By: 

Scott T. Wyland
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Harrisburg, PA 17101
(717) 234-6700
Counsel for Guilford Township

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of Transportation :
of the Commonwealth of Pennsylvania :
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Company (DOT No: 535 152 B) in Guilford :
Township, Franklin County all in accordance with : **Filed Electronically**
the Federal Grade Crossing Program and the :
Allocation of costs incident thereto :

CERTIFICATE OF SERVICE

I hereby certify that I served one (1) copy of the Joint Petition for Settlement and related Statements in Support of Settlement in the above action, this day by depositing the same in the United States, mail, postage prepaid, in Harrisburg, Pennsylvania, addressed to the following in accordance with the requirements of § 1.54:

VIA ELECTRONIC MAIL:


Steven K. Haas, Esquire
Administrative Law Judge
Pennsylvania Public Utility
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