

Nauman Smith

Attorneys At Law

Please Reply to:
P. O. Box 840
Harrisburg, PA 17108-0840

Benjamin C. Dunlap, Jr.
E-mail: bdunlapjr@nssh.com

April 6, 2009

**Via Electronic Mail
Confirmed By Hand Delivery**

James McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

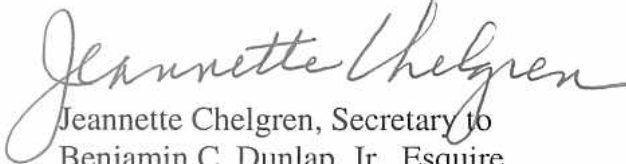
In re: Application of Norfolk Southern Railway Company to abolish the public rail-highway crossing of High Street above its tracks in the City of Bethlehem and the Borough of Hellertown, Northampton County, Pennsylvania (DOT # 592 787 H). PUC Docket No. A-2008-2075123

Dear Sir:

Attached please find the Petition to Appeal Secretarial Letter filed on behalf of Norfolk Southern Railway Company in the above-referenced matter. In accordance with the accompanying Certificate of Service, we are serving a copy of the Petition on all parties of record by regular mail.

A hard copy of the attached Petition will be hand delivered to your office. If you have any questions, please don't hesitate to contact our office.

Sincerely yours,


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

Enclosures

cc: All Parties of Record (w/enc.)
Randal S. Noe, Esquire (w/enc.)
Thomas Bracey (w/enc.)
Ronald Hull, P.E. Rail Safety Division (w/enc.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**In re: Application of Norfolk Southern Railway :
Company to abolish the public rail-highway :
crossing of High Street above its tracks in the : Docket No. A-2008-2075123
City of Bethlehem and Borough of Hellertown, :
Northampton County, Pennsylvania :
(DOT # 592 787 H) :**

PETITION TO APPEAL SECRETARIAL LETTER

Norfolk Southern Railway Company (“Norfolk Southern”), by and through its attorneys, NAUMAN, SMITH, SHISSLER & HALL, LLP, hereby files this Petition for Appeal from the Secretarial Letter issued March 18, 2009, in the above-referenced matter, pursuant to 52 Pa. Code § 5.44, based upon the following:

1. In paragraph 7 of its Application, as reiterated at the Commission field investigation and conference held on February 5, 2009, at the site of the subject crossing, Norfolk Southern agreed to remove the existing wooden bridge structure and replace it with fill that would support a roadway, at its sole cost and expense. The proposed scope of work would support a 16-foot wide roadway for a 12-foot wide single lane at a finished grade approximately 12 inches below the current roadway elevation. Norfolk Southern also offered to convey its property at the crossing at no cost to the City of Bethlehem (“City”) for the roadway.

2. The Secretarial Letter, however, ordered Norfolk Southern to develop plans and to construct “a roadway on fill at this location” with bituminous material. See Ordering Paragraphs 3-6.

3. Norfolk Southern did not agree to construct a roadway at this location at its sole cost and expense.

4. Neither does the Secretarial Letter address Norfolk Southern's limitation of replacing the bridge with fill that would support a 16-foot wide roadway for a 12-foot wide single traffic lane, which is the width of the present roadway at this location.

5. Although Norfolk Southern objects to and appeals the Secretarial Letter as including terms to which it did not agree, Norfolk Southern will submit preliminary construction plans with a detailed cost estimate to the City for review, as discussed at the field conference, in an effort to reach settlement with the City regarding this matter.

WHEREFORE, Norfolk Southern Railway Company respectfully appeals the Secretarial Letter in this matter dated March 18, 2009, and requests that the matter be set for hearing if the parties do not submit a settlement agreement to the Commission for approval within sixty (60) days of the date of this Petition.

Respectfully submitted,

NAUMAN, SMITH, SHISSLER & HALL, LLP



Benjamin C. Dunlap, Jr., Esquire

Supreme Court I.D. No. 66283

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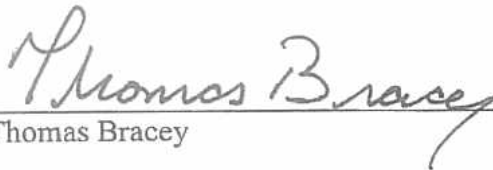
Facsimile: (717) 234-1925

Date: April 6, 2009

Counsel for Norfolk Southern Railway Company

VERIFICATION

I, Thomas Bracey, Senior Engineer Public Improvements, Norfolk Southern Corporation, do state that I am authorized to make this statement on behalf of Norfolk Southern Railway Company and verify that I have read the attached Petition to Appeal Secretarial Letter and that the within information is true and correct to the best of my knowledge, information and belief. To the extent that the contents of the pleading are that of counsel, Verifier has relied upon counsel in making this verification. This verification is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.


Thomas Bracey

Date: April 6, 2009

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**In re: Application of Norfolk Southern Railway :
Company to abolish the public rail-highway :
crossing of High Street above its tracks in the : Docket No. A-2008-2075123
City of Bethlehem and Borough of Hellertown, :
Northampton County, Pennsylvania :
(DOT # 592 787 H) :**

CERTIFICATE OF SERVICE

I hereby certify that I served one (1) copy of the Petition to Appeal of Secretarial Letter of Norfolk Southern Railway Company, in the above action, this day by depositing the same in the United States mail, postage prepaid, in Harrisburg, Pennsylvania, addressed to:

Gary C. Fawver, P.E., Chief
Right-of-Way and Utilities Division
Bureau of Design, Penn DOT
P.O. Box 3362
Harrisburg, PA 17105-3362

Gina M. D'Alfonso, Esquire
Office of Chief Counsel
PennDOT
P.O. Box 8212
Harrisburg, PA 17105-8212

Moravian College
Attn: Facilities Services
1415 Cortland Street
Bethlehem, PA 18018

Engineering District 5-0
Pennsylvania Department of Transportation
Ahmed Lasloudji
1002 Hamilton Street
Allentown, PA 18101

Lower Saucon Authority
Attn: Tiffany T. Clewell
3706 Old Philadelphia Pike
Bethlehem, PA 18015

PPL Electric Utilities Corporation
Attn: Jennifer Perdick
827 Housman Road
Allentown, PA 18104

XO Communication
C/o De-Tech Inc.
Attn: Robert Freed
120 N. Pearl Street
Crestline, OH 44827

Bethlehem City Dept. of Water/Sewer
Attn: Carl Newswanger
10 E. Church Street
Bethlehem, PA 18018

UGI Utilities Inc.
Attn: Linda Sofranek
2121 City Line Road
Bethlehem, PA 180172

Verizon Pennsylvania, Inc.
Attn: Ernestine Draper
900 Race Street, 6th fl.
Philadelphia, PA 19107

Hellertown Boro Authority/Hellertown Boro
Attn: Glenn B. Higbie
501 Durham Street
PO Box 81
Hellertown, PA 18055

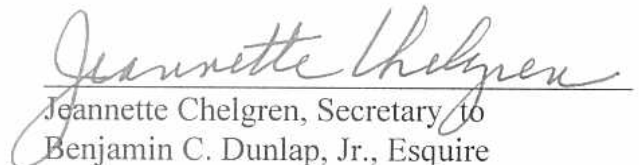
RCN Telecom Services, Inc.
Attn: Bob Roe
1525 Valley Center Parkway
Bethlehem, PA 18017

Suburban Propane LP
Attn: Mike Merrill
240 Route 10 West
Whippany, NJ 07981

Karl F. Longenbach, Esquire
Northampton County Solicitor
669 Washington Street
Easton, PA 18042

Borough of Hellertown
685 Main Street
Hellertown, PA 18055

City of Bethlehem
10 E. Church Street
Bethlehem, PA 18018


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

Date: April 6, 2009