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June 11, 2010

Via Electronic Filing

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street – Filing Room  
Harrisburg, PA 17120

Re: Application of Consolidated Rail Corporation for the Abolition of 31 Crossings of the Enola Branch, LC: 201323, MP 3.5 to MP 27.0, Sub No. 1095X, Harrisburg Division, Lancaster County; Docket No. A-00111016

Board of Supervisors of Bart Township v. Consolidated Rail Corporation, Pennsylvania Department of Transportation and Lancaster County, *et al.*; Docket No. C-00913256

**PETITION TO WITHDRAW REQUEST TO MODIFY OPINION AND ORDER OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Dear Secretary Chiavetta:

By this letter, Providence Township, Lancaster County, Pennsylvania (“Township”) is electronically filing with the Pennsylvania Public Utility Commission (“Commission”) the enclosed Petition to Withdraw its November 17, 2009 Petition to Modify portions of the October 9, 1997 Opinion and Order entered in connection with the above-captioned matters.

The original copy of this filing will be provided to the Commission as required by the Regulations. In addition, copies of the attached Petition have been served as indicated on the attached Certificate of Service.

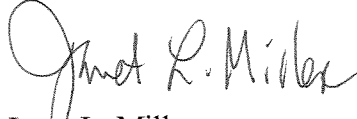
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MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
June 11, 2010  
Page Two

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

Very truly yours,

A handwritten signature in cursive script that reads "Janet L. Miller". The signature is written in black ink and is positioned above the printed name.

Janet L. Miller  
*Counsel for Providence Township*

JLM/das  
Enclosure

cc: Providence Township Board of Supervisors  
Melvin Newcomer, Esquire  
Per Certificate of Service

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Consolidated Rail Corporation for the Abolition of 31 Crossings of the Enola Branch, LC: 201323, MP 3.5 to MP 27.0, Sub No. 1095X, Harrisburg Division, Lancaster County : Docket No. A-00111016  
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Board of Supervisors of Bart Township : Docket No. C-00913256  
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v.  
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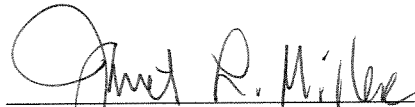
Consolidated Rail Corporation, Pennsylvania Department of Transportation and Lancaster County, *et al.* :  
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**NOTICE TO PLEAD**

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Pursuant to 52 Pa. Code § 5.94(a), you are hereby notified that, if you do not file a written objection to the attached Petition within twenty (20) days from service of this notice, the facts set forth in the Petition may be deemed to be true, thereby requiring no other proof. All pleadings, such as a response to the Petition, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on all parties.



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Attorney ID No. 63491  
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717-236-1300 (Voice)  
717-236-4841 (Facsimile)  
jlmiller@hmslegal.com

DATED: June 11, 2010

*Counsel for Providence Township*

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Consolidated Rail : Docket No. A-00111016  
Corporation for the Abolition of 31 :  
Crossings of the Enola Branch, :  
LC: 201323, MP 3.5 to MP 27.0, :  
Sub No. 1095X, Harrisburg Division, :  
Lancaster County :

Board of Supervisors of Bart Township : Docket No. C-00913256  
:

v. :

Consolidated Rail Corporation, :  
Pennsylvania Department of :  
Transportation and Lancaster County, :  
*et al.* :

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**PETITION TO WITHDRAW REQUEST TO MODIFY  
OPINION AND ORDER OF THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Providence Township, Lancaster County, Pennsylvania (“Petitioner” or “Township”), by and through its counsel in this matter, Hawke McKeon & Sniscak LLP, and pursuant to 52 Pa. Code § 5.94(a), hereby files this Petition to withdraw (“Petition to Withdraw”) the Petition filed by the Township on November 17, 2009 requesting that the Pennsylvania Public Utility Commission (“Commission”) modify portions of the October 9, 1997 Opinion and Order entered by the Commission in the above-captioned matters (“Petition to Modify”). In support thereof, the Township represents as follows:

## I. INTRODUCTION

1. The name and address of the Petitioner is:

Providence Township  
Providence Township Municipal Office  
200 Mt. Airy Road  
New Providence, PA 17560-9781

2. The name and address of counsel for the Petitioner is:

Janet L. Miller  
Hawke McKeon & Sniscak LLP  
100 North Tenth Street  
PO Box 1778  
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3. On October 9, 1997, the Commission entered an Opinion and Order (“1997 Order”) approving a Stipulation of Settlement dated February 25, 1997 (“1997 Settlement”) entered into by multiple parties, including Petitioner and Consolidated Rail Corporation (“Conrail”).<sup>1</sup> The 1997 Settlement resolved various issues in connection with an application filed by Conrail to abolish 31 crossings where the Enola Branch, Harrisburg Division, crossed above and below certain highways in a total of eight (8) municipalities in Lancaster and Chester Counties, Pennsylvania, including the Hollow Road (West) crossing in Providence Township. This crossing was identified as Crossing No. 21.

4. The 1997 Order directed Conrail, at its initial cost and expense, to demolish the bridge substructure and superstructure at the Hollow Road (West) crossing and to realign the roadway, if necessary. 1997 Order at pp. 65-67. This work was to be completed within one (1) year of the date on which the 1997 Order was entered, or, by October 9, 1998. 1997 Order at

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<sup>1</sup> Through a series of transfers and mergers, Norfolk Southern Railway Company (“Norfolk Southern”) became the successor-in-interest to Conrail and is now responsible for all obligations agreed to by Conrail in the 1997 Settlement and assigned to Conrail by the 1997 Order.

pp. 65-67. Through a series of Commission Orders, the completion date was extended to December 31, 2009.<sup>2</sup>

5. The 1997 Order directed the Township to maintain the roadway at the Hollow Road (West) crossing, at its sole cost and expense. 1997 Order at pp. 65-67.

## **II. PETITION TO MODIFY**

6. On November 17, 2009, the Township filed a Petition to Modify in which it requested that the bridge structure at the Hollow Road (West) crossing remain in place rather than being demolished. If the Petition to Modify was approved, the Township agreed, at its own cost and expense, to maintain the bridge substructure, superstructure and abutments, as well as the roadway and approaches and, if and when necessary, to realign Hollow Road (West).

7. The only responses filed to the Petition to Modify were filed by the Pennsylvania Department of Transportation and the Commission's Bureau of Transportation and Safety Prosecutory Staff, which were dated November 30, 2009 and December 10, 2009, respectively.

8. On February 16, 2010, the Commission entered an Opinion and Order in which the Township's Petition to Modify was held in abeyance until the conclusion of an evidentiary hearing to be scheduled by the Office of Administrative Law Judge. As of this date, no hearing has been scheduled.

## **III. PETITION TO WITHDRAW**

9. Subsequent to its filing of the Petition to Modify, the Township determined it no longer has the financial capability to pursue its request that the Hollow Road (West) bridge structure remain in place. Nor does the Township believe it has or will have the financial ability

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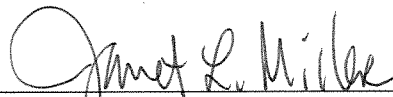
<sup>2</sup> In its Petition to Modify, the Township requested that the completion date be stayed until the Commission entered an order approving or denying the Petition and that Norfolk Southern be given twelve (12) months from the entry date of an order denying the Township's Petition to complete the work directed by the 1997 Order at this location.

to maintain the bridge on a going forward basis or to realign Hollow Road (West), if needed. For these reasons, the Township respectfully requests that the Commission permit it to withdraw the November 17, 2009 Petition to Modify and asks that the Commission's file with regard to that Petition be closed.

10. Should the Commission approve the requests contained herein, the Township respectfully requests that Norfolk Southern be given twelve (12) months from date on which the Commission's Order is entered to complete the work required by the 1997 Order.

WHEREFORE, for all the reasons set forth above, Providence Township, Lancaster County, Pennsylvania respectfully requests that the (a) relief sought in this Petition to Withdraw be approved; (b) November 17, 2009 Petition to Modify the Commission's 1997 Opinion and Order in the above-captioned proceedings be withdrawn; and (c) Commission's file with regard to the Township's Petition to Modify be closed.

Respectfully submitted,



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[jlmiller@hmslegal.com](mailto:jlmiller@hmslegal.com)

DATED: June 11, 2010

*Counsel for Providence Township*

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

### *Service by First Class U.S. Mail:*

Gina M. D'Alfonso, Esquire  
Assistant Counsel in Charge, Utility Section  
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Office of Chief Counsel  
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Harrisburg, PA 17105-8212

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Nauman Smith Shissler & Hall  
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Harrisburg, PA 17108-0840

David Screven, Esquire  
Pennsylvania Public Utility Commission  
Legal Division  
Bureau of Transportation & Safety  
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Corporation (AMTRAK)  
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Coatesville City Authority  
One City Hall Place  
Coatesville, PA 19320

Joyce A. Nettke, Esquire  
FAST  
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Strasburg, PA 17579

John Chase  
Quarryville Water Authority  
300 Saint Catherine Street  
Quarryville, PA 17566

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Pennsylvania Power & Light  
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Allentown, PA 18101

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Legal Department  
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Pottstown, PA 19464

Lancaster County Planning Commission  
50 North Duke Street  
Lancaster, PA 17603

Lancaster County Commissioners  
50 North Duke Street – 5<sup>th</sup> Floor  
P.O. Box 83480  
Lancaster, PA 17608-3480

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Montgomery McCracken Walker  
& Rhoads, LLP  
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Berwyn, PA 19312-2401

Bart Township Supervisors  
46 Quarry Road  
Quarryville, PA 17566

Conestoga Township Supervisors  
3959 Main Street  
P.O. Box 98  
Conestoga, PA 17516

Eden Township Board of Supervisors  
489 Stony Hill Road  
Quarryville, PA 17566

Martic Township  
370 Steinman Farm Road  
Pequea, PA 17565

Borough of Quarryville  
330 St. Catherine Street  
Quarryville, PA 17566

Sadsbury Township  
7182 White Oak Road  
Christiana, PA 17509

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Ephrata, PA 17522

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Lancaster 17603-3827

William Crosswell, Esquire  
Morgan, Hallgren, Crosswell & Kane, PC  
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Lancaster, PA 17604-4686

Melvin Newcomer, Esquire  
Solicitor, Providence Township  
339 N. Duke Street  
PO Box 539  
Lancaster, PA 17608

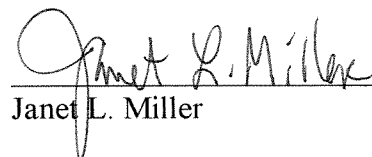
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Solicitor, Quarryville Borough  
Morgan, Hallgren, Crosswell & Kane, P.C.  
700 N Duke St Box 4686  
Lancaster PA 17604-4686

James H. Thomas, Esquire  
Blakinger Byler & Thomas  
Solicitor for Sadsbury & Conestoga  
Townships  
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Lancaster, PA 17603

Office of Consumer Advocate  
555 Walnut Street, Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923

Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 N 2<sup>nd</sup> Street  
Harrisburg, PA 17101

Office of Trial Staff  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

  
\_\_\_\_\_  
Janet L. Miller

Dated this 11<sup>th</sup> day of June, 2010