

# Nauman Smith

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Benjamin C. Dunlap, Jr.  
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July 21, 2017

**Via Electronic Filing**

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

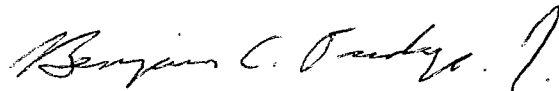
**RE: IN RE: Application of the York Railway Company to determine fair and reasonable maintenance responsibilities for the warning devices at the Broadway Street Crossings (DOT 540 847 W and DOT 832 109 N) where York Railway Company and CSX Transportation cross said Roadway in the Borough of Hanover, York County, PA**  
**Docket No: A-00123148**

**IN RE: Application of CSX Transportation, Inc. for approval to abolish the public crossing (DOT #540847W) where Broadway Street crosses, at grade, a single track of York Railway Company in the Borough of Hanover, York County**  
**Docket No: A-2016-2581908**

Dear Secretary Chiavetta:

I am enclosing CSXT's Motion to Consolidate for filing in the above-referenced matters. In accordance with the accompanying Certificate of Service, we are providing a copy of this document to all interested parties. If you have any questions, please advise.

Sincerely yours,



Benjamin C. Dunlap, Jr.

Enclosure

cc: All Interested Parties (w/enc.)  
Administrative Law Judge David A. Salapa (via electronic mail w/enc.)

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**IN RE: Application of the York Railway Company to determine fair and reasonable maintenance responsibilities for the warning devices at the Broadway Street Crossings (DOT 540 847 W and DOT 832 109 N) where York Railway Company and CSX Transportation cross said Roadway in the Borough of Hanover, York County, PA** :  
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**MOTION TO CONSOLIDATE**

CSX Transportation, Inc. (“CSXT”), by and through its undersigned counsel, hereby moves to consolidate the two above-referenced matters, pursuant to 52 Pa. Code §5.81, based upon the following:

1. York Railway Company (“York Railway”), filed its Application to determine maintenance responsibilities for the warning devices at the Broadway Street crossings of its tracks and those of CSXT in Borough of Hanover (“Borough”) on or about September 21, 2006. In its application filing, York Railway stated that it was “subject to 100% of the grade crossing signal maintenance for CSX Transportation track traversing the grade crossing and York Railway Company track traversing the grade crossing.” See *id.* at ¶ 4. It asked for a redetermination of

those responsibilities based upon its then current usage.

2. On December 29, 2016, CSXT filed its Application to abolish York Railway's crossing with Broadway Street in the Borough. CSXT's Application was based upon York Railway informing CSXT that it had "taken a rail out on our side within the island circuit and have disabled our side within the signal box. Since this work is done we have placed our side out of service and do not plan to continue to do any inspections at this crossing." See *id.* at ¶ 5.

3. Based upon York Railway's assertions and lack of further cooperation in performing signalization tests required by federal law, CSXT stated in its Application that it would perform all required testing of the crossing on an interim basis. It requested that the crossing of York Railway's track with Broadway Street be abolished and the track be removed at York Railway's sole cost and expense. After the track removal, CSXT agreed that it would reposition the signal mast on the York Railway side of the crossing to comply with MUTCD standards and would assume complete maintenance responsibility for the signalization at the crossing, at its sole cost and expense. See *id.* at ¶¶ 11-13.

4. As the two applications concern common questions of law and fact, this Motion meets the Commission's criteria for consolidation under 52 Pa. Code §5.81.

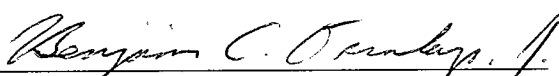
5. Consolidating the two application proceedings would promote efficiency in determining all related questions concerning the disposition of the York Railway crossing and maintenance responsibilities, thereby avoiding unnecessary costs or delay for all parties as well as the Commission.

6. An Initial Pre-Hearing Conference on York Railway's Application has been scheduled for September 7, 2017, before Administrative Law Judge David A. Salapa.

WHEREFORE, CSX Transportation, Inc., respectfully requests that the above-referenced applications of York Railway Company and CSX Transportation, Inc. be consolidated for further proceedings.

Respectfully Submitted,

**NAUMAN, SMITH, SHISSLER & HALL, LLP**

By: 

**Benjamin C. Dunlap, Jr., Esquire**

Supreme Court I.D. #66283

Nauman, Smith, Shissler & Hall, LLP

200 North Third Street, 18<sup>th</sup> Floor

P.O. Box 840

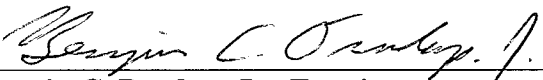
Harrisburg, PA 17108-0840

Attorney for CSX Transportation, Inc.

Dated: July 21, 2017

**VERIFICATION**

I, **Benjamin C. Dunlap, Jr., Esquire**, a member of the firm of Nauman, Smith, Shissler & Hall, LLP, attorneys for CSX Transportation, Inc. (“CSXT”) in the foregoing proceeding, make this verification on behalf of CSXT, and do state that as an attorney for CSXT, I am authorized to make this Verification on behalf of CSXT, and further state that, based on information provided to me by CSXT, the facts set forth in the foregoing **Motion to Consolidate**, are true and correct to the best of my knowledge, information and belief. I understand that my statements are made subject to 18 Pa. C.S. § 4904 providing for criminal penalties for unsworn falsification to authorities.

  
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**Benjamin C. Dunlap, Jr., Esquire**

Date: July 21, 2017

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**IN RE: Application of the York Railway Company to determine fair and reasonable maintenance responsibilities for the warning devices at the Broadway Street Crossings (DOT 540 847 W and DOT 832 109 N) where York Railway Company and CSX Transportation cross said Roadway in the Borough of Hanover, York County, PA** : : **Docket No: A-00123148**  
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**CERTIFICATE OF SERVICE**

I hereby certify that I served one (1) copy of the Motion to Consolidate of CSX Transportation, Inc. in the above-referenced matter, this day, by depositing the same in the United States mail, postage prepaid, in Harrisburg, Pennsylvania, addressed to:

Adam Frankel, Esquire  
Genesee & Wyoming Inc.  
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York County Commissioners  
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York, PA 17401

Borough of Hanover  
44 Frederick Street  
Hanover, PA 17331

Dale Ault  
Borough of Hanover  
44 Frederick Street  
Hanover, PA 17331

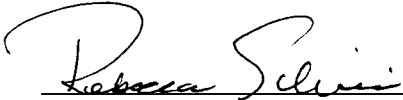
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Akron, OH 44308-1890

  
\_\_\_\_\_  
Rebecca Silvia, Legal Assistant to  
Benjamin C. Dunlap, Jr., Esquire

Dated: July 21, 2017