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September 8, 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 Prehearing Conference Memorandum 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	:	Docket No: A-00123148
maintenance responsibilities for the warning	:	
devices at the Broadway Street Crossings (DOT	:	
540 847 W and DOT 832 109 N) where York	:	Filed Electronically
Railway Company and CSX Transportation	:	
cross said Roadway in the Borough of Hanover,	:	
York County, PA	:	
	:	
	:	
IN RE: Application of CSX Transportation,	:	
Inc. for approval to abolish the public crossing	:	Docket No: A-2016-2581908
(DOT #540847W) where Broadway Street	:	
crosses, at grade, a single track of York	:	Filed Electronically
Railway Company in the Borough of Hanover,	:	
York County	:	

**PREHEARING CONFERENCE MEMORANDUM OF
CSX TRANSPORTATION, INC.**

CSX Transportation, Inc. (“CSXT”), by and through its undersigned counsel, hereby submits this Prehearing Conference Memorandum pursuant to the Prehearing Conference Order dated July 5, 2017, by Administrative Law Judge David A. Salapa. Although the Prehearing Conference Order only covered the application of York Railway Company, CSXT filed a Motion to Consolidate the two application proceedings referenced above on July 21, 2017, on the basis that the two applications concern common questions of law and fact and thus meet the Commission’s criteria for consolidation under 52 Pa. Code § 5.81. No response to CSXT’s Motion to Consolidate was filed in opposition.

1. CSXT’s sole entry on the service list shall be as follows:

Benjamin C. Dunlap, Jr., Esquire
200 North Third Street, 18th Floor
P.O. Box 840
Harrisburg, PA 17108-0840
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Fax No.: (717) 234-1925
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2. **Potential for Settlement** – CSXT and York Railway Company (“York Railway”) have reached agreement on the general terms of a settlement that would resolve all issues in this matter. The parties are currently exchanging documents that would detail the terms of such a settlement and request additional time to work out those matters. The terms of the settlement would also require approval by the Federal Service Transportation Board, which it is believed could be accomplished within 30 to 60 days after CSXT and York Railway finalize their settlement. As York Railway is currently not operating on its track at the crossing, and CSXT has assumed full responsibility for maintenance of the signalization at its sole cost and expense until this matter is resolved, there is no public safety issue in allowing the parties time to further pursue settlement.

3. **Proposed Plan and Schedule of Discovery** – At this time, CSXT does not think that it would have the need to conduct any discovery if settlement is unsuccessful.

4. **Proposed Schedule for Submission of Written Testimony, Conducting In-Person Hearing and Submission of Briefs** – CSXT requests that the setting of a proposed litigation schedule be continued while settlement negotiations are ongoing.

5. **Names of Witnesses and Subject Matter of Their Testimony** – Derek Mihaly, Project Manager II, CSX Transportation, Inc., 4 Neshaminy Interplex, Suite 205, Trevoise, PA 19053 will be CSXT’s witness should this matter go to hearing. Mr. Mihaly will testify as to all

issues listed in the following paragraphs. CSXT reserves the right to call different or additional witnesses.

6. List of the Issues and Sub-Issues in this Proceeding and a Statement of CSXT's

Position On Each of the Issues and Sub-Issues Listed:

- a. Whether CSXT's application to abolish the York Railway crossing should be granted?

CSXT Position: CSXT thinks that if York Railway has no foreseeable need for its crossing, that is should be abolished, or at least suspended.

- b. Which party should have future maintenance of the signalization?

CSXT Position: If the York Railway crossing is suspended for a period of time, CSXT will continue to maintain the signalization at the crossing, as it is currently doing, at its sole cost and expense unless and until such time as York Railway should resume operations over its crossing. If the York Railway crossing should be ordered abolished, CSXT will agree to thereafter reposition the signal mast on the York Railway side of the crossing to comply with MUTCD standards and assume complete maintenance responsibility for the signalization at the crossing, at CSXT's sole cost and expense. If York Railway should ever desire to reestablish a crossing at this location, it would then do so at its sole cost and expense with its own signalization equipment and an interconnection.

7. Evidence to be Presented at Hearing – CSXT requests that a listing of evidence be continued until such time as it is determined whether a hearing is necessary in this proceeding.

Respectfully Submitted,

NAUMAN, SMITH, SHISSLER & HALL, LLP

By: 

Benjamin C. Dunlap, Jr., Esquire

Supreme Court I.D. #66283

200 North Third Street, 18th Floor

P.O. Box 840

Harrisburg, PA 17108-0840

Attorney for CSX Transportation, Inc.

Dated: September 8, 2017

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

IN RE: Application of the York Railway	:	
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	:	
	:	
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(DOT #540847W) where Broadway Street	:	
crosses, at grade, a single track of York	:	Filed Electronically
Railway Company in the Borough of Hanover,	:	
York County	:	
	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify that I served one (1) copy of the Prehearing Conference Memorandum of CSX Transportation, Inc. in the above-referenced matters, this day, via electronic mail as noted below and by depositing the same in the United States mail, postage prepaid, in Harrisburg, Pennsylvania, addressed to:

John E. Young, Esquire
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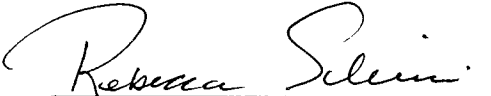
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Rebecca Silvia, Legal Assistant to
Benjamin C. Dunlap, Jr., Esquire

Dated: September 8, 2017