

CAPTION SHEET

CASE MANAGEMENT SYSTEM

1. REPORT DATE: 00/00/00 :
 2. BUREAU: TSR :
 3. SECTION(S) :
 5. APPROVED BY: : 4. PUBLIC MEETING DATE:
 DIRECTOR: : 00/00/00
 SUPERVISOR: :
 6. PERSON IN CHARGE: : 7. DATE FILED: 07/21/03
 8. DOCKET NO: C-20031000 : 9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: LATROBE, CITY OF

RESPONDENT/APPLICANT: NORFOLK SOUTHERN RAILWAY CO

COMP/APP COUNTY: WESTMORELAND

UTILITY CODE: 500250

ALLEGATION OR SUBJECT

COMPLAINANT STATES THERE ARE THREE UNDERPASSES OWNED BY NORFOLK SOUTHERN CORP. WHICH ARE LOCATED WITHIN THE CITY LIMITS. THE CITY HAS TRIED TO GET NORFOLK SOUTHERN TO REPLACE LIGHTS IN THE UNDERPASSES. THESE LIGHTS HAVE BEEN OUT FOR TWO YEARS. THE CITY HAS WRITTEN AND PHONED NORFOLK SOUTHERN WITH NO RESPONSE. THEY WANT THE PUC TO PERSUADE THE RAILROAD COMPANY TO MAINTAIN THE LIGHTS IN THE UNDERPASSES & HAVE THE OVERGROWTH ON NORTH AVENUE IN LATROBE TRIMMED OFF OF THE ROADWAY.

DOCUMENT FOLDER

DOCKETED
AUG 18 2003

C-20031000

ORIGINAL

Railway Formal Complaint Form PENNSYLVANIA PUC

JUL 16 03

BEFORE

PENNSYLVANIA PUBLIC UTILITY COMMISSION CONSUMER SERVICES DIVISION

For Commission Use Only:		
Complaint Docket No. _____	REF. # _____	Utility Code _____
VS. _____		PA PUBLIC UTILITY COMMISSION

JUL 21 2003

Please Print:

BUREAU OF TRANSPORTATION & SAFETY RAIL SAFETY DIVISION

1. Your Name, Address and Telephone Number.

Name CITY OF LATROBE

Street 901 JEFFERSON ST.

City LATROBE State PA Zip 15650

County WESTMORELAND Home Telephone (724) 537-3580

Work Telephone (724) 537-3580

2. Company you are complaining about.

Name NORFOLK SOUTHERN CORP.

3. What is your complaint? (Describe problem)

THERE ARE 3 UNDERPASSES OWNED BY NORFOLK SOUTHERN CORP. WHICH ARE LOCATED WITHIN THE CITY LIMITS. THE CITY HAS TRIED TO GET NORFOLK SOUTHERN TO REPLACE LIGHTS IN THE UNDERPASSES. THESE LIGHTS HAVE BEEN OUT FOR TWO YEARS. THE CITY HAS WRITTEN AND PHONED NORFOLK SOUTHERN - WITH NO RESPONSE.

For Commission Use Only:		
DATE FILED _____	MONITOR _____	BUREAU _____

03 JUL 21 PM 2:39

SECRETARY'S BUREAU

162

I HAVE ATTACHED A LETTER
WRITTEN TO NORFOLK SOUTHERN CORP.
A SIMILAR LETTER WAS WRITTEN IN
2001 - W/NO RESPONSE.

(If you need more space, please attach paper.)

4. What do you want us to do?

PERSUADE THE RAILROAD CO.
TO MAINTAIN THE LIGHTS IN
THE UNDERPASSES & HAVE THE
OVERGROWTH ON NORTH AVE. IN LATROUSE
TRIMMED OFF OF THE ROADWAY.

Thank You for your help.

(If you need more space, please attach paper.)

YOU MUST SIGN HERE

Anne Powell

Signature of complainant or
Attorney for corporate complainant

PUT TODAY'S DATE HERE

14 July 03.

Today's Date

YOU DO NOT NEED A LAWYER

If you DO have a lawyer please print the lawyer's
name, address, and phone number below.

Lawyer's Name _____

Street _____

City _____ State _____ Zip _____

Telephone Number (____) _____

City of Latrobe

Planning and Development

901 Jefferson Street
P.O. Box 829
Latrobe, Pennsylvania 15650
724 / 537-3580
FAX 724 / 537-4802

SEPTEMBER 26, 2002

CURTIS MEESE
NORFOLK SOUTHERN CORP.
532 DEPOT STREET
LATROBE PA 15650

DEAR MR. MEESE,

THERE ARE A FEW ITEMS THAT NEED ADDRESSED CONCERNING THE PROPERTIES OF NORFOLK SOUTHERN THAT ARE LOCATED IN THE CITY OF LATROBE.

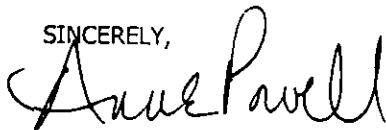
THERE ARE THREE (3) RAILROAD UNDERPASSES LOCATED IN OUR DOWNTOWN AREA ON JEFFERSON STREET, LIGONIER STREET AND ALEXANDRIA STREET. THE JEFFERSON AND LIGONIER STREET UNDERPASSES HAVE EIGHT (8) LIGHTS EACH, NONE OF WHICH ARE OPERATING. OF THE TEN (10) LIGHTS IN THE ALEXANDRIA STREET UNDERPASS, SIX (6) HAVE BEEN DISLODGED BY BIRDS WHO HAVE BUILT NESTS IN THEM. NONE OF THESE LIGHTS ARE WORKING EITHER. BECAUSE OF THE LOCATION OF THE UNDERPASSES, THEY ARE HEAVILY USED BY PEDESTRIANS. THE LACK OF LIGHTS IN THEM HAS BECOME A PUBLIC SAFETY HAZARD.

ALONG THE LOYALHANNA CREEK OVERPASS ON NORTH AVENUE IN LATROBE, PENNDOT HAS RECENTLY CONSTRUCTED A RETAINING WALL AND SIDEWALK. THERE IS A LOT OF OVERGROWN VEGETATION ALONG THIS WALL INTERFERING WITH VEHICLES AND PEDESTRIANS.

THE CITY OF LATROBE IS REQUESTING THAT ALL LIGHTS IN THE UNDERPASSES BE REPLACED WITH CONTINUED MAINTENANCE TO AVOID THIS PROBLEM IN THE FUTURE. THE CITY ALSO REQUESTS THAT THE VEGETATION ALONG NORTH AVENUE AND AREAS AT EACH UNDERPASS BE TRIMMED OR SPRAYED TO REMEDY THIS PROBLEM ALSO.

I WOULD BE HAPPY TO MEET WITH YOU REGARDING THESE PROBLEMS, OR FEEL FREE TO CONTACT ME WITH ANY QUESTIONS OR CONCERNS.

SINCERELY,



ANN E. POWELL
CODE ENFORCEMENT OFFICER

AEP/KML

PC: RICHARD TIMMONS
NORFOLK SOUTHERN CORP.
4600 DEER PATH ROAD, SUITE 202
HARRISBURG PA 17110

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: AUGUST 18, 2003

CITY OF LATROBE
Complainant

VS.

NORFOLK SOUTHERN RAILWAY
COMPANY
WESTMORELAND COUNTY -
SOLICITOR
Commonwealth of Pennsylvania
Department of Transportation
Respondents

Complaint Docket
No: C-20031000

DOCUMENT
FOLDER

DOCKETED
AUG 18 2003

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

TO: RESPONDENTS

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the **Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265**, an answer (original and three copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. The date of service is the mailing date as indicated by the date at the top of this Notice. Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

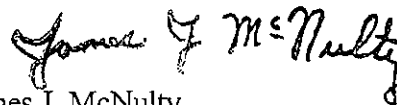
2. If you fail to either satisfy this complaint or to file answer or other responsive pleading within twenty (20) days, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing,

enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy this complaint you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.



James J. McNulty
Secretary

(SEAL)

Certified Mail
Return Receipt Requested

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P O BOX 3265, HARRISBURG PA 17105-3265

DATE SERVED: AUGUST 18, 2003

C-20031000

NORFOLK SOUTHERN RAILWAY COMPANY
110 FRANKLIN ROAD, S.E.
ROANOKE VA 24042-0028

WESTMORELAND COUNTY - SOLICITOR
R. MARK GESALMAN
2 NORTH MAIN STREET
COURTHOUSE SQUARE, SUITE 103
GREENSBURG PA 15601

PENNDOT
ATTN: ANDREW GORDEN ESQUIRE
OFFICE OF CHIEF COUNSEL
P O BOX 8212
HARRISBURG PA 17105-8212

Dear Sir/Madam:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by CITY OF LATROBE. To defend yourself against the claims stated in the following pages, you must act within twenty (20) days by filing in writing with the Commission, either personally or through your attorney, your defenses or objections to the claims stated against you. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days.

IF YOU FAIL TO RESPOND WITHIN TWENTY (20) DAYS, THE CASE MAY GO FORWARD IN YOUR ABSENCE AND A JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

CUSTOMER OF A UTILITY

A payment schedule may be prescribed or a termination of utility services may be authorized. You may lose money or property or other rights important to you.

DOCUMENT
FOLDER

COMPANY/UTILITY

An Administrative Law Judge may revoke or suspend any certificate or permit held by you, or impose a fine, or any other appropriate penalty or remedy authorized by the Public Utility Code. You may lose money or property or other rights important to you.



AUGUST 18, 2003

Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

Very truly yours,

James J. McNulty
Secretary

JH

2. Article Number



7160 3901 9843 0203 1881

3. Service Type CERTIFIED MAIL

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

C-20031000
FC
Westmoreland County-
Solicitor

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) _____ B. Date of Delivery _____

C. Signature *[Signature]* Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:



PS Form 3811, February 2003

Domestic Return Receipt

2. Article Number



7160 3901 9843 0203 1898

3. Service Type CERTIFIED MAIL

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

C-20031000
FC
Norfolk Southern
Railway Co.

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) *E Schuyler* B. Date of Delivery *8-20-03*

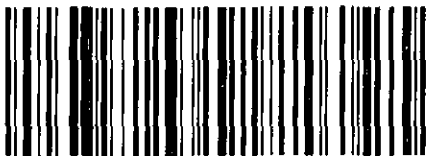
C. Signature *E Schuyler* Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

PS Form 3811, February 2003

Domestic Return Receipt

2. Article Number



7160 3901 9843 0203 1874

3. Service Type CERTIFIED MAIL

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

C-20031000
FC
Penndot
Andrew S. Gordon

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) _____ B. Date of Delivery *AUG 19 2003*

C. Signature *James J Bryant* Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

PS Form 3811, February 2003

Domestic Return Receipt



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

August 26, 2003

DOCUMENT
FOLDER

GARY C FAWVER PE CHIEF
ROW & UTILITY DIVISION
PENNDOT BUREAU OF DESIGN
PO BOX 3362
HARRISBURG PA 17105-3362

In re: C-20031000 – Complaint states there are three underpasses owned by Norfolk Southern Corp. which are located within the City limits. The City has tried to get Norfolk Southern to replace lights in the underpasses. These lights have been out for two years. The City has written and phoned Norfolk Southern with no response. They want the PUC to persuade the railroad company to maintain the lights in the underpasses and have the overgrowth on North Avenue in Latrobe trimmed off of the roadway.

Dear Mr. Fawver:

This is to advise that a field conference and investigation will be held at the site of the crossing involved in the afore entitled proceeding on September 19, 2003 at 10:00 a.m., to discuss the matters involved.

Kindly arrange to have a representative meet at Alexandria Street in the City of Latrobe.

Very truly yours,

DOCKETED

SEP 02 2003

D. A. Oliver, P.,E.
Rail Safety Division
Bureau of Transportation and Safety
717-787-5189

.DAO:lg .

Similar letter list..
C-20031000

GARY C FAWVER PE CHIEF
ROW & UTILITY DIVISION
PENNDOT BUREAU OF DESIGN
PO BOX 3362
HARRISBURG PA 17105-3362

GLENN FULLEM
PENNDOT DISTRICT 12-0
PO BOX 459
NORTH GALLATIN AVENUE EXTENSION
UNIONTOWN PA 15401

JONATHAN HOCKER
ENGINEER PUBLIC IMPROVEMENTS
NORFOLK SOUTHERN RAILWAY COMPANY
99 SPRING STREET S W
ATLANTA GA 30303

ANN POWELL CODE ENFORCEMENT OFFICER
CITY OF LATROBE
901 JEFFERSON STREET
PO BOX 829
LATROBE PA 15650

JENNIFER KEMERER CHIEF CLERK
WESTMORELAND COUNTY
2 NORTH MAIN STREET
COURTHOUSE SQUARE SUITE 101
GREENSBURG PA 15601

ORIGINAL

OFFICE OF COUNSEL - Real Property Division
Commonwealth Keystone Building
400 North Street, Harrisburg PA 17120-0096
Post Office Box 8212, Harrisburg, PA 17105-8212



September 2, 2003

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

DOCUMENT
FOLDER

RE: Docket No. C-20031000

Dear Secretary McNulty:

Enclosed for filing, please find the original and three (3) copies of the **ANSWER TO COMPLAINT OF THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION** in the above-captioned matter.

I hereby certify that a copy of the Department's **ANSWER TO COMPLAINT** has been sent to all parties of record as indicated on the **CERTIFICATE OF SERVICE**.

Very truly yours,

Gina M. D'Alfonso
Assistant Counsel-in-Charge

220/GMD:sld
Enclosures

cc: Parties of Record
Gary C. Fawver, P.E., Chief, Right-of-Way and Utilities Division, 7th Floor
Glenn Fullem, District 12-0

RECEIVED

SEP 02 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



GOVERNOR'S OFFICE OF GENERAL COUNSEL
TELEPHONE: 717.787.3128
FAX: 717.772.2741
www.dot.state.pa.us

125

Pennsylvania Department of Transportation

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

CITY OF LATROBE	:	
Complainant	:	
	:	
VS.	:	
NORFOLK SOUTHERN RAILWAY	:	Complaint Docket
COMPANY,	:	No: C-20031000
WESTMORELAND COUNTY -	:	
SOLICITOR	:	
Commonwealth of Pennsylvania,	:	
Department of Transportation	:	
Respondents	:	

ANSWER TO COMPLAINT

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation (Department), by and through its counsel, Gina M. D'Alfonso, Assistant Counsel-in-Charge, and offers the following Answer to Complaint:

1. Admitted.
2. Admitted.

DOCUMENT
FOLDER

3. Denied. The Department is without sufficient information upon which to respond to the allegations in Paragraph 3.

4. This paragraph is a prayer for relief to which no response is warranted.

RECEIVED

SEP 02 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

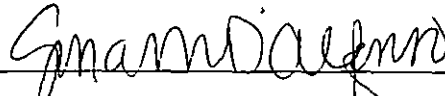
DOCKETED

SEP 11 2003

Wherefore, the Department of Transportation respectfully requests that this matter be scheduled for a field conference to discuss the allegations contained herein.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Gina M. D'Alfonso
Assistant Counsel-in-Charge
Office of Chief Counsel
Keystone Building - 9th Floor
P.O. Box 8212
Harrisburg, PA 17105-8212
Telephone No. (717) 787-3128

DATED: September 2, 2003

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SEP 02 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

CITY OF LATROBE :
Complainant :

VS. :

NORFOLK SOUTHERN RAILWAY :
COMPANY, :
WESTMORELAND COUNTY - :
SOLICITOR :
Commonwealth of Pennsylvania, :
Department of Transportation :
Respondents :

Complaint Docket
No: C-20031000

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SEP 02 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

VERIFICATION

I, Gina M. D'Alfonso, Assistant Counsel-in-Charge for the Commonwealth of Pennsylvania, Department of Transportation, in this matter, hereby verify that the statements made in the foregoing **ANSWER TO COMPLAINT** are true and correct to the best of my knowledge, information and belief. I understand that this statement is made subject to penalties of 18 Pa. C.S. §4904, relating to the unsworn falsification to authorities.


Gina M. D'Alfonso

DATED: September 2, 2003

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

CITY OF LATROBE :
Complainant :

VS. :

NORFOLK SOUTHERN RAILWAY :
COMPANY, :
WESTMORELAND COUNTY - :
SOLICITOR :
Commonwealth of Pennsylvania, :
Department of Transportation :
Respondents :

Complaint Docket
No: C-20031000

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SEP 02 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

VERIFICATION

I, Roger S. Aulakh, P.E., Grade Crossing Engineer, for the Commonwealth of Pennsylvania, Department of Transportation, in this matter, hereby verify that the statements made in the foregoing **ANSWER TO COMPLAINT** are true and correct to the best of my knowledge, information and belief. I understand that this statement is made subject to penalties of 18 Pa. C.S. §4904, relating to the unsworn falsification to authorities.



Roger S. Aulakh, P.E.

DATED: September 2, 2003

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

CITY OF LATROBE :
Complainant :
 :
VS. :
NORFOLK SOUTHERN RAILWAY : Complaint Docket
COMPANY, : No: C-20031000
WESTMORELAND COUNTY - :
SOLICITOR :
Commonwealth of Pennsylvania, :
Department of Transportation :
Respondents :

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SEP 02 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the *ANSWER*
TO COMPLAINT OF THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF
TRANSPORTATION was served upon the parties listed below by first-
class mail, postage-prepaid this 2nd day of September, 2003.

Norfolk Southern Railway Company
1110 Franklin Road, S.E.
Roanoke, VA 24042-0028

Randal S. Noe, Esquire
Norfolk Southern Railway Company
3 Commercial Place
Norfolk, VA 23510

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Gina M. D'Alfonso
Assistant Counsel-in-Charge
Office of Chief Counsel
Keystone Building - 9th Floor
P.O. Box 8212
Harrisburg, PA 17105-8212
Telephone No. (717) 787-3128

DATED: September 2, 2003

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SEP 02 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Ms. Ann E. Powell
August 28, 2003
Files: 117-33932, 117-33934, and 117-33935 JEH
Page Two

As you may already know, the Public Utility Commission has convened a field conference for Friday, September 19, to discuss the City's formal complaint. Until then, please contact me should you have any questions about the Railway's position in this matter.

DOCUMENT
FOLDER

Sincerely,

Jonathan Hocker
Engineer
Public Improvements

RECEIVED
03 SEP -4, PM 3:34
PA.P.U.C.
SECRETARY'S BUREAU

Cy: Mr. David A. Oliver ✓
Rail Safety Division
Bureau of Transportation and Safety
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, Pennsylvania 17105-3265

DOCKETED
SEP 16 2003

PA PUBLIC UTILITY COMMISSION
AUG 29 2003
BUREAU OF TRANSPORTATION & SAFETY
RAIL SAFETY DIVISION

RJP



**NORFOLK
SOUTHERN**

Norfolk Southern Corporation
99 Spring Street, S.W.
Atlanta, Georgia 30303
404/529-1408
Fax: 404/527-2589

J. N. Carter, Jr.
Chief Engineer
Bridges and Structures

J. E. Hocker
Engineer
Public Improvements
jonathan.hocker@nscorp.com
404/529-1362
Fax: 404/527-2769

**Subject: City of Latrobe, Westmoreland County, Pennsylvania
Streetlights at Alexandria Street, Ligonier Street, and Jefferson Street Underpasses
Pittsburgh Division Mileposts PT-312.27, PT-312.39, and PT-312.46**

August 28, 2003

**Files: 117-33932 (PT-312.27, Alexandria Street)
117-33934 (PT-312.39, Ligonier Street)
117-33935 (PT-312.46, Jefferson Street)
JEH**

**Ms. Ann E. Powell
Code Enforcement Officer
City of Latrobe
901 Jefferson Street
P. O. Box 829
Latrobe, Pennsylvania 15650**

Dear Ms. Powell:

Reference is made to your letter of September 26, 2002, requesting that Norfolk Southern bear the cost of repairs and continuing maintenance for the streetlights at the subject underpasses.

Our records show the Pennsylvania Railroad completely reconstructed these three bridges during the early to mid 1950s as provided for under the Public Utility Commission's Order No. 75922 issued February 5, 1951, and the modifications thereto. A copy of the final modification to the Order, dated February 14, 1955, is enclosed for your reference.

Based on our review of the documents generated by the PUC proceeding, including the PRR's detailed material and cost estimates for the project, it does not appear that lighting of the underpasses was considered at the time of their reconstruction. Nor have we found evidence of a subsequent agreement providing for the installation or maintenance of the streetlights. We surmise, therefore, that these lights were installed by the City of Latrobe for the public benefit.

We respectfully advise that maintenance of public roadways, sidewalks, streetlights, and other utilities beneath the Railway's underpasses is, with rare exception, the responsibility of state or local government. Railway forces would perform such work only where there exists a formal agreement or other legal instrument assigning maintenance responsibility to the Railway, neither of which appears to be in effect in this case.



ORIGINAL

BURNS, WHITE & HICKTON

A LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

William J. Donovan
Attorney at Law

(412) 918-7913
wjdonovan@bwhllc.com

120 FIFTH AVENUE
SUITE 2400
PITTSBURGH, PA 15222-3001

(412) 394-2500 • FAX (412) 281-1352

www.bwhllc.com

THE MAXWELL CENTRE
SUITE 200
32-20TH STREET
WHEELING, WEST VIRGINIA 26003
(304) 233-9500 • FAX (304) 233-1363

September 5, 2003

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17120

DOCUMENT
FOLDER

RECEIVED

SEP 05 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: City of Latrobe v. Norfolk Southern Railway Company
Docket No. C-20031000
Our File No. 3091/to be assigned

Dear Mr. McNulty:

Enclosed herein kindly find a Notice of Appearance to be filed on behalf of Respondent, Norfolk Southern Railway Company in the within matter.

Also enclosed kindly find Norfolk Southern Railway Company's Answer to the Complaint in the within matter. Kindly file same.

Very truly yours,

William J. Donovan

WJD:pc

Enclosures

c: Ann E. Powell
R. Mark Gesalman, Esquire
Andrew Gorden, Esquire

VIA OVERNIGHT MAIL

ORIGINAL

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

CITY OF LATROBE,)
)
 Complainant,)
)
 v.) No. C-20031000
)
 NORFOLK SOUTHERN RAILWAY)
 COMPANY, WESTMORELAND COUNTY)
 SOLICITOR, COMMONWEALTH OF)
 PENNSYLVANIA, DEPARTMENT OF)
 TRANSPORTATION,)
)
 Respondents.)

RECEIVED

SEP 05 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

NOTICE OF APPEARANCE

TO: James J. McNulty, Secretary

Kindly enter the appearance of Burns, White & Hickton and John G. Wall, Esquire, and William J. Donovan, Esquire, as trial counsel on behalf NORFOLK SOUTHERN RAILWAY COMPANY in connection with the above-captioned matter.

DOCUMENT
FOLDER

Respectfully submitted,

BURNS, WHITE & HICKTON

William J. Donovan

BY: _____

John G. Wall, Esquire
William J. Donovan, Esquire
Attorneys for NORFOLK SOUTHERN
RAILWAY COMPANY

Burns, White & Hickton
120 Fifth Avenue, Suite 2400
Pittsburgh, PA 15222-3001

(412) 394-2500

DOCKETED
SEP 11 2003

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within NOTICE OF APPEARANCE was served upon all parties of record by United States first class mail, postage prepaid, this 5th day of September, 2003, as follows:

Ann E. Powell
Code Enforcement Officer
City of Latrobe
Planning and Development
901 Jefferson Street
P.O. Box 829
Latrobe, PA 15650

R. Mark Gesalman, Esquire
2 North Main Street
Courthouse Square
Suite 103
Greensburg, PA 15601

Andrew Gorden, Esquire
Office of Chief Counsel
Commonwealth of Pennsylvania
Department of Transportation
P.O. Box 8212
Harrisburg, PA 17105-8212

BURNS, WHITE & HICKTON

BY: William J. Donovan

John G. Wall, Esquire
William J. Donovan, Esquire
Attorneys for NORFOLK SOUTHERN
RAILWAY COMPANY

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

CITY OF LATROBE,)
)
Complainant,)
)
v.) No. C-20031000
)
NORFOLK SOUTHERN RAILWAY)
COMPANY, WESTMORELAND COUNTY)
SOLICITOR, COMMONWEALTH OF)
PENNSYLVANIA, DEPARTMENT OF)
TRANSPORTATION,)
)
Respondents.)

RECEIVED

SEP 05 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

DOCUMENT
FOLDER

ANSWER

NOW COMES, Norfolk Southern Railway Company, by and through its attorneys,
Burns, White & Hickton and William J. Donovan, Esquire, and files the within Answer to the
Complaint to the City of Latrobe in the within matter.

DOCKETED
SEP 11 2003

1. Admitted.
2. Denied. Defendant is incorrectly identified as Norfolk Southern Corporation.
Defendant's correct identification should be Norfolk Southern Railway Company.
3. Denied. It is specifically denied that Norfolk Southern Railway Company
assumes responsibility for maintenance of the lights complained about in paragraph 3 of the
Complaint.
4. Denied. It is specifically denied that the railroad responsible for the lights
complained of in paragraph 4 of the Complaint. It is further denied that Norfolk Southern
Railway Company is responsible for the area of overgrowth complained of in paragraph 4 of the
Complaint.

Respectfully submitted,

BURNS, WHITE & HICKTON

BY: William J. Donovan
William J. Donovan, Esquire
Attorneys for NORFOLK SOUTHERN
RAILWAY COMPANY

Burns, White & Hickton
120 Fifth Avenue, Suite 2400
Pittsburgh, PA 15222-3001

(412) 394-2500

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within ANSWER was served upon all parties of record by United States first class mail, postage prepaid, this 5th day of September, 2003, as follows:

Ann E. Powell
Code Enforcement Officer
City of Latrobe
Planning and Development
901 Jefferson Street
P.O. Box 829
Latrobe, PA 15650

R. Mark Gesalman, Esquire
2 North Main Street
Courthouse Square
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Andrew Gorden, Esquire
Office of Chief Counsel
Commonwealth of Pennsylvania
Department of Transportation
P.O. Box 8212
Harrisburg, PA 17105-8212

BURNS, WHITE & HICKTON

BY: William J. Donovan

William J. Donovan, Esquire
Attorneys for NORFOLK SOUTHERN
RAILWAY COMPANY

Thomas C. Ceraso
Commissioner

Tom Balya
Chairman

P. Scott Conner
Commissioner

ORIGINAL

Westmoreland County
Pennsylvania



OFFICE OF
COUNTY SOLICITOR
2 North Main Street, Suite 103
Greensburg, Pennsylvania 15601

Phone: (724) 830-3145
(800) 442-6926
Fax: (724) 830-3055
TDD 830-3802

September 5, 2003

James McNulty, Secretary
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg PA 17105-3265

Re: City of Latrobe v. Norfolk Southern Railroad Company,
Westmoreland County and Commonwealth of Pennsylvania
Department of Transportation
Docket No. C-20031000

RECEIVED
03 SEP - 9 AM 9:19
PENNSYLVANIA
SECRETARY'S BUREAU

Dear Mr. McNulty:

Enclosed for filing please find the original and three (3) copies of the Answer of Westmoreland County to be filed in the above-captioned matter.

I hereby certify that the parties indicated on the Certificate of Service have been served with a copy of said Answer.

Very truly yours,

Debra M. Nicholson
Assistant County Solicitor

DOCUMENT
FOLDER

DMN:em
Enclosures

cc: Parties of Record

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

CITY OF LATROBE,
Complainant

Docket No.
C-20031000

v.

NORFOLK SOUTHERN RAILROAD COMPANY :
WESTMORELAND COUNTY :
COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF TRANSPORTATION, :
Respondents :

RECEIVED
03 SEP - 9 AM 9:19
PA.P.U.C. BUREAU
SECRETARY'S BUREAU

ANSWER

DOCUMENT
FOLDER

AND NOW, comes the County of Westmoreland, (County), by and through its attorney,
Debra M. Nicholson, Assistant County Solicitor, and files the following answer:

1. Admitted.
2. Admitted.
3. Paragraph 3 is neither admitted nor denied. The County is without sufficient information to respond to Paragraph 3.
4. Paragraph 4 is neither admitted nor denied. The County is without sufficient information to respond to Paragraph 4. Further, the County requests that a field conference be held in this matter.

DOCKETED
SEP 18 2003

Respectfully submitted,

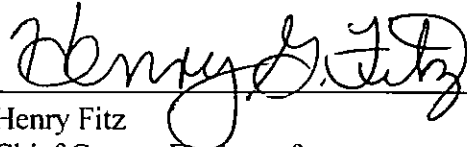
Debra M. Nicholson

Debra M. Nicholson
Assistant County Solicitor

Dated: 9/5/03

VERIFICATION

I, Henry Fitz, hereby verify that the statements made in this matter are true and correct to my knowledge, information and belief. I understand that the statements made herein are subject to 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

A handwritten signature in cursive script, appearing to read "Henry G. Fitz", written over a horizontal line.

Henry Fitz
Chief County Engineer for
Westmoreland County

CERTIFICATE OF SERVICE

I hereby certify that I am this date serving the foregoing document upon the persons and the manner indicated below:

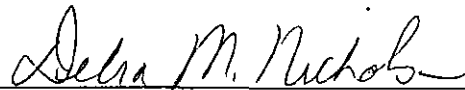
SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOWS:

Ann Powell
901 Jefferson Street
Latrobe, PA 15650

Norfolk Southern Railway, Co.
110 Franklin Road, S.E.
Roanoke, VA 24042-0028

PennDot
Attention: Andrew Gordon, Esquire
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212

Secretary of the Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265



Debra M. Nicholson
Assistant County Solicitor for
Westmoreland County
Pa ID No. 44795
2 North Main Street, Suite 103
Greensburg, PA 15601
(724) 830-3556

Dated: _____

9/05/03



BURNS, WHITE & HICKTON

A LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

John G. Wall
Attorney at Law

(412) 359-7386
(412) 359-7378 - fax
jgwall@bwhllc.com

120 FIFTH AVENUE
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www.bwhllc.com

THE MAXWELL CENTRE
SUITE 200
32-20TH STREET
WHEELING, WEST VIRGINIA 26003
(304) 233-9500 • FAX (304) 233-1363

October 13, 2003

Via facsimile transmission

David Oliver, P.E.
Rail Safety Division
Bureau of Transportation and Safety
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: City of Latrobe v. Norfolk Southern Railway Company
Docket No. C-20031000
Our File No. 3091/137871

Dear Mr. Oliver:

As indicated at the field conference relevant to the within matter on September 19, 2003, your efforts to bring about resolution of this matter involving three (3) grade-separated crossings are greatly appreciated. I find your proposed Secretarial Letter, which you were kind enough to forward to the undersigned and counsel for the City of Latrobe, very clear and well drafted. Upon review of same, my client has suggested the following changes believed to be minor:

1. Add a sentence to the end of the first full paragraph on page two (2). This additional sentence would provide as follows:

"Said plans and specifications must meet with NS and Commission approval as set forth below."
2. Amend numbered paragraphs 2 and 3 at the bottom of page two (2).
Change "within six (6) months from the date of this Secretarial Letter" to "within six (6) months following Commission approval of construction plans and specifications."

David Oliver, P.E.
October 13, 2003
Page 2

I remain interested in your thoughts regarding these proposed minor revisions. Moreover, I would welcome information regarding the position taken by the City of Latrobe regarding this matter.

I look forward to hearing from you. Again, many thanks for the highly professional manner in which you have sought resolution of this matter.

Very truly yours,


John G. Wall

JGW:pc

c: Randal Noe, Esquire
Jonathan Hocker
(both via e-mail)

C-20031000

JAMES E. KELLEY, JR.
ATTORNEY AT LAW
Lincoln Professional Building
1714 Lincoln Avenue
Latrobe, Pennsylvania 15650

(724) 539-0676
Fax (724) 539-3273

DOCUMENT

November 11, 2003

David Oliver
Rail Safety Division
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

John G. Wall, Esq.
Burns, White & Hickton
120 Fifth Avenue, Suite 2400
Pittsburgh, PA 15222-3001

RECEIVED
03 NOV 20 AM 9:34
SECRETARY'S BUREAU

**IN RE: Norfolk Southern Corporation / City of Latrobe
Secretarial Letter – Section 2702 of the Public Utility Code**

Dear Mr. Oliver and Mr. Wall:

Enclosed please find a copy of a motion duly passed by the Council of the City of Latrobe at its regular monthly business meeting held on Monday, November 10, 2003. A full quorum was present throughout. The motion approves of the Secretarial Letter issued by Mr. Oliver with the amendment I transmitted to each of you by letter dated October 22, 2003. Kindly advise where we stand on this matter.

Very truly yours,

James E. Kelley, Jr.
James E. Kelley, Jr.

JEKjr/bam

cc: Richard J. Stadler, City Manager
Ann Powell, Code Officer
Joseph Bush, Superintendent of Public Works

PA PUBLIC UTILITY COMMISSION

NOV 11 2003

BUREAU OF TRANSPORTATION & SAFETY
RAIL SAFETY DIVISION

MOTION

PUBLIC WORKS DEPARTMENT

I move approve the proposed Secretarial Letter issued by the Pennsylvania Utilities Commission, as amended by correspondence of the Solicitor, setting forth an agreement between the City and Norfolk Southern Railway Company whereby Norfolk Southern will install new lighting equipment, poles and meters at underpasses located on Alexandria Street, Ligonier Street and Jefferson Street with the City thereafter maintaining these lighting facilities.

DOCUMENT

DOCKETED
FEB 09 2004

Meeting Date: November 10, 2003

DOCUMENT



RECEIVED

BURNS, WHITE & HICKTON

03 NOV 25 PM 2:28

A LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

PA.P.U.C.
SECRETARY'S BUREAU

John G. Wall
Attorney at Law

(412) 359-7386
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32-20TH STREET
WHEELING, WEST VIRGINIA 26003
(304) 233-9500 • FAX (304) 233-1363

November 20, 2003

Via facsimile transmission

David Oliver, P.E.
Rail Safety Division
Bureau of Transportation and Safety
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

James E. Kelley, Jr., Esquire
Lincoln Professional Building
1714 Lincoln Avenue
Latrobe, PA 15650

Re: City of Latrobe v. Norfolk Southern Railway Company
Docket No. C-20031000
Our File No. 3091/137871

DOCKETED
FEB 09 2004

Dear Mr. Oliver and Mr. Kelley:

Under correspondence dated October 22, 2003, Attorney Kelley proposed amendment to paragraph 3 of the proposed Secretarial Letter to provide as follows:

3. Norfolk Southern Railway Company, at is [sic] sole cost and expense, within six months from the date of this Secretarial Letter, furnish all material, **including but not limited to meters and poles if necessary**, and perform all work necessary to attach the rehabilitated lighting system to the commercial power supply.

Norfolk Southern Railway Company proposes minor amendment to the language proposed by Mr. Kelley whereby paragraph 3 of the proposed Secretarial Letter would provide as follows:

3. Norfolk Southern Railway Company, at its sole cost and expense, within six (6) months following Commission approval of construction specifications, furnish all materials, including but not limited to meters and poles, if necessary, and perform all work necessary to attach the rehabilitated lighting system to the commercial power supply.

PA PUBLIC UTILITY COMMISSION
NOV 24 2003
BUREAU OF TRANSPORTATION & SAFETY
RAIL SAFETY DIVISION

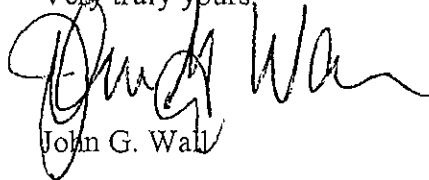
David Oliver, P.E.
James E. Kelley, Jr., Esquire
November 20, 2003
Page 2

The change proposed by Norfolk Southern Railway Company to the language suggested by Attorney Kelley relates only to the event triggering the six (6) month period of time within which work is to be completed. I trust this minor amendment shall meet with the approval of all. This proposed amendment is in addition to those set forth in my facsimile transmission of October 13, 2003, an additional copy of which is enclosed herein.

I would request that Attorney Kelley, should there be objection to any of the proposed amendments, kindly so advise Mr. Oliver and the undersigned in writing within thirty (30) days from the present.

In the interim, should you have any questions or comments concerning this matter, please do not hesitate to contact me.

Very truly yours,



John G. Wall

JGW:pc

Enclosure

c: Randal Noe, Esquire
Jonathan Hocker, P.E.
(both via e-mail)