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April 9, 2021

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

**Re: Application of the Department of Transportation of the Commonwealth of Pennsylvania for approval to alter the crossings where State Route 3104 crosses, above grade, the tracks of CSX Transportation Inc. (DOT 584 825 U), Norfolk Southern Railway Company (DOT 507 455 K), and the Pittsburgh and Ohio Central Railroad Company (DOT unknown) in the City of Pittsburgh, Stowe Township and McKees Rocks Borough, Allegheny County
Docket No. A-2020-3020667**

Dear Secretary Chiavetta:

Enclosed for filing please find the Prehearing Conference Memorandum of CSX Transportation, Inc. and Norfolk Southern Railway Company in the above-referenced matter. A copy has been served upon all interested parties of record. Thank you.

Sincerely yours,

A handwritten signature in blue ink that reads 'Benjamin C. Dunlap, Jr.'.

Benjamin C. Dunlap, Jr.

BCDjr/law
Enclosures

cc: Judge Conrad A. Johnson (via email with enclosures)
All Parties of Record

LEGAL EXCELLENCE AND PRACTICAL SOLUTIONS SINCE 1871

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of Transportation :
of the Commonwealth of Pennsylvania for :
approval to alter the crossings where State Route :
3104 crosses, above grade, the tracks of CSX : Docket No. A-2020-3020667
Transportation Inc. (DOT 584 825 u), Norfolk :
Southern Railway Company (DOT 507 455 k), : Electronically Filed
and the Pittsburgh and Ohio Central Railroad :
Company (DOT unknown) in the City of :
Pittsburgh, Stowe Township and McKees Rocks :
Borough, Allegheny County :
:

**PREHEARING CONFERENCE MEMORANDUM OF CSX TRANSPORTATION, INC.
AND NORFOLK SOUTHERN RAILWAY COMPANY**

CSX Transportation, Inc. (“CSXT”) and Norfolk Southern Railway Company (“Norfolk Southern”), by and through its undersigned counsel, hereby file this Prehearing Conference Memorandum in the above matter, pursuant to the Prehearing Conference Order of Administrative Law Judge Conrad A. Johnson dated March 10, 2021.

1. **History of the Proceeding**

On July 2, 2020, the Pennsylvania Department of Transportation (“PennDOT”) submitted an application (“Application”) to the Public Utility Commission (“PUC”) for approval to alter the crossings where State Route 3104 crosses, above grade, the tracks of Norfolk Southern, CSXT and the Pittsburgh & Ohio Central Railroad Company (“POHC”), in the City of Pittsburgh, Stowe Township and McKees Rocks Borough in Allegheny County.

An initial field investigation and conference was conducted by a PUC staff engineer on October 21, 2020, with representatives from PennDOT, CSXT, Norfolk Southern, the City of Pittsburgh, McKees Rocks Borough, Peoples Natural Gas Company and Verizon in attendance.

PennDOT agreed to maintain the substructure and superstructure of the entire length of the McKees Rocks Bridge and the railroad parties agreed to maintain their respective railroad facilities in the area of the subject crossings. At the time of the field conference, future maintenance of the bridge lighting and removal of snow, ice, and debris from the sidewalks had not been resolved.

By Secretarial Letter dated March 10, 2021, PUC approved the Application and directed PennDOT to construct the project at its sole cost and expense. It was further determined that PennDOT would establish and maintain all traffic controls required to accommodate pedestrian and highway traffic at its sole expense and reimburse the railroad parties for the cost of flagmen and protection of train traffic.

The matter was then reassigned to the Office of Administrative Law Judge to determine maintenance for removal of snow, ice, and debris from the sidewalks on the bridge, applying anti-skid and de-icing material, and maintenance for lighting and energization for the lighting on the structure. A telephonic prehearing conference is scheduled for April 13, 2021, before Administrative Law Judge (“ALJ”) Conrad A. Johnson. In the Prehearing Conference Order issued on March 10, 2021, the parties were instructed to provide Prehearing Memoranda by 4 p.m. on April 9, 2021.

2. **A list of issues of this proceeding which the parties intend to present.**

- a) Which party should be responsible for maintenance of the sidewalks of the bridge.
- b) Which party should be responsible for lighting and to provide energization for the lighting on the structure.

3. **A list of proposed witnesses and subject of their testimony.**

Witnesses – Unknown at this time.

Subject of Testimony – Reasons for such maintenance responsibilities not being assigned to a railroad, per Millcreek Twp. v. Pa. Public Utility Comm'n, 753 A.2d 324, 327 (Pa. Cmwlth. Ct. 2000).

4. **A list of exhibits or documents the parties intend to present at the hearing in this proceeding.**

Unknown at this time. Evidence may be identified through discovery and evidence presented at the hearing would be submitted beforehand with service of CSXT's and Norfolk Southern's written direct and rebuttal testimony.

Respectfully Submitted,



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Date: April 9, 2021

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of Transportation of :
the Commonwealth of Pennsylvania for approval :
to alter the crossings where State Route 3104 :
crosses, above grade, the tracks of CSX : **A-2020-3020667**
Transportation Inc. (DOT 584 825 U), Norfolk :
Southern Railway Company (DOT 507 455 K), : **Electronically Filed**
and the Pittsburgh and Ohio Central Railroad :
Company (DOT unknown) in the City of :
Pittsburgh, Stowe Township and McKees Rocks :
Borough, Allegheny County :
:

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below by electronic mail pursuant to the Emergency Order at Docket Number M-2020-3019262:

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By: /s/ Lori Wyman
Lori Wyman

Date: April 9, 2021