

**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 Transportation Inc. (DOT 584 825 U), Norfolk Southern Railway Company (DOT 504 455 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**

**Prehearing Memorandum**

Filed on behalf of: McKees Rocks Borough

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### PREHEARING MEMORANDUM

McKees Rocks Borough (hereinafter, the “Borough”), by and through its attorneys, Megan M. Turnbull and Danielle Guarascio, respectfully submits this Prehearing Memorandum consistent with Administrative Law Judge Conrad A. Johnson’s Prehearing Order, issued on March 10, 2021 in reference to the above-captioned proceeding.

#### **I. HISTORY OF THE PROCEEDING**

On July 2, 2020, the Pennsylvania Department of Transportation (PennDOT) filed an application with the Pennsylvania Utility Commission (hereinafter, “Commission”), seeking approval to alter the crossings where State Route (SR) 3104 crosses, above-grade, the tracks of Norfolk Southern Railway Company (NS), the Pittsburgh & Ohio Central Railroad Company (POHC), CSX Transportation, Inc. (CSXT), the Ohio River and numerous surface streets located in the City of Pittsburgh, Stowe Township and McKees Rocks Borough, all in Allegheny County.

PennDOT proposed various rehabilitation work, including the following: expansion dam replacements, bridge deck concrete barrier repairs and replacements, protective fencing replacements above the railroads, strip seal replacements, limited sidewalk replacement with concrete filled steel grate decking, miscellaneous steel and concrete repairs, limited steel structure painting (pedestrian railing and sidewalk support elements) and approach slab replacement. PennDOT proposes that the maintenance responsibilities relative to salting, plowing and lighting be assigned to the municipal entities.

The Commission issued a Secretarial Letter on March 10, 2021, deeming the alteration of the crossings necessary and proper. The Secretarial Letter defined the responsibilities for each party in the matter.

## **II. PRESENTLY IDENTIFIED ISSUES**

The Borough anticipates the need to negotiate terms associated with maintenance of the right-of-way and the related separation of duties associated with this project. The Borough also reserves the right to raise further issues and to respond to all matters raised by other parties. In the event that the Borough decides to raise any additional issues, it will inform all parties and Administrative Law Judge Conrad A. Johnson (hereinafter, "ALJ Johnson") as soon as possible.

## **III. PROPOSED WITNESSES**

If testimony is necessary regarding the aforementioned issues, the Borough anticipates calling the following Borough representatives:

Ruth Pompey, Borough Manager  
340 Bell Avenue  
McKees Rocks, PA 15136  
[manager@mckeesrockspa.us](mailto:manager@mckeesrockspa.us)

Bobby Thompson, Street Department Foreman  
340 Bell Avenue  
McKees Rocks, PA 15136  
[streetdept@mckeesrockspa.us](mailto:streetdept@mckeesrockspa.us)

Doug Evans, P.E., Borough Engineer  
Rachel Smart, P.E., Assistant Borough Engineer  
NIRA Engineers  
950 5th Avenue  
Coraopolis, PA 15108  
[devans@niraengineers.com](mailto:devans@niraengineers.com)  
[rsmart@niraengineers.com](mailto:rsmart@niraengineers.com)

The Borough reserves the right to modify or supplement this witness list during the course of this proceeding. In the event that the Borough decides to modify or supplement the witness list, it will inform all parties and ALJ Johnson as soon as possible.

**IV. PROPOSED AREA OF TESTIMONY OF EACH WITNESS**

Ruth Pompey and Bobby Thompson will each testify as to the Borough's operations and budget. Similarly, the Borough Engineer's Office may testify regarding municipal boundaries, design elements and other matters within the scope of their professional engineering judgment.

**V. EXHIBITS OR DOCUMENTS INTENDED TO BE PRESENTED AT HEARING**

At this time, the Borough anticipates potentially offering exhibits, if needed, to establish municipal boundaries and related linear square footage of project work within the Borough. The Borough would like to reserve the right to raise supplement exhibits or documents during the course of this proceeding in support of its position and/or in rebuttal to other testimony or exhibits presented. In the event that the Borough decides to supplement any exhibits or documents, it will inform all parties and ALJ Johnson as soon as possible.

**VI. PROPOSED PROCEDURAL SCHEDULE**

The Borough accepts the discovery and litigation schedule agreed upon by the other parties, in accordance with the March 10, 2021 Prehearing Order issued by ALJ Johnson. The schedule is as follows:

1. Written direct testimony due on July 21, 2021.
2. Written rebuttal testimony due on August 25, 2021.
3. Witness schedule due 3 business days before the hearing.
4. Hearing to occur the week of September 27, 2021. The parties agree that only one day will be needed for the evidentiary hearing.
5. Briefing schedule to be established at the hearing.

Respectfully submitted,



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McKees Rocks Borough Solicitor  
Pa. I.D. #93333



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McKees Rocks Borough Assistant Solicitor  
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**CERTIFICATE OF SERVICE**

I, Megan M. Turnbull, Esquire, do hereby certify that a true and correct copy of the foregoing **Prehearing Memorandum** was served by electronic mail on this 9th day of April 2021, upon the following:

**Service by Electronic Mail:**

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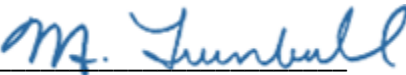
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