

August 31, 2022

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
2nd Floor, Room-N201
Harrisburg, PA 17120

RE: Priority 1 bridge repairs in response to a recent inspection at the public crossing (DOT 510 521 Y), where Washington Street crosses, above grade, the tracks of Norfolk Southern Railway Company, Port Authority of Allegheny County East Busway and Waverly Avenue located in the Borough of Swissvale, Allegheny County and exemptions from the minimum side clearances required by 52 Pa. Code, Section 33.122

Dear Secretary Chiavetta:

Enclosed please find Swissvale Borough's Answer to Petition for Recission of Order which was filed on behalf of Norfolk Southern in connection with the above matter. A copy has been served upon all interested parties of record.

Please feel free to contact me if you have any questions.

Sincerely,



Robert L. McTiernan

Enclosure

TADMS:11228965-1 004565-040653

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Priority 1 bridge repairs in response to a recent inspection at the public crossing (DOT 510 521 Y), where Washington Street crosses, above grade, the tracks of Norfolk Southern Railway Company, Port Authority of Allegheny County East Busway and Waverly Avenue located in the Borough of Swissvale, Allegheny County and exemptions from the minimum side clearances required by 52 Pa. Code, Section 33.122 : **Docket No. A-2022-3033069**
: **Filed Electronically**

ANSWER TO PETITION FOR RESCISSION OF ORDER

AND NOW comes the Borough of Swissvale (“Swissvale Borough”) by and through its undersigned counsel, and files the following Answer to Petition for Rescission of Order filed by Norfolk Southern Railway Company (“Norfolk Southern”) in the above referenced matter, as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted
5. Swissvale Borough has insufficient information to reach a conclusion on the truth of the

allegations in this paragraph. For that reason, they are denied for purposes of this Answer. To the best of Swissvale Borough’s knowledge, the repairs ordered by the Secretary would alleviate the risks to the extensive train, bus and emergency vehicle traffic that passes beneath the Washington Street Bridge.

6. Swissvale Borough has insufficient information to reach a conclusion as to the truth of the allegations of paragraph 6 and, therefore, they are denied for purposes of this Answer. To the best knowledge of Swissvale Borough, the repairs order by the Secretary would contribute to, and protect the safety of the extensive rail, public bus and emergency vehicle traffic that pass beneath the Washington Street Bridge on Norfolk Southern rail lines and on the Martin Luther King East Busway, operated by the Pittsburgh Regional Transit, formerly known as the Port Authority of Allegheny County.

7. Swissvale Borough is without sufficient knowledge to form a belief as to the truth of the Norfolk Southern's allegations in this paragraph. For that reason, they are denied for purposes of this Answer.

8. Swissvale Borough is without sufficient knowledge and information to form a belief as to the truth of Norfolk Southern's claims with respect to the estimate for work needed on the Washington Street Bridge. For that reason, the allegations are denied for purposes of this Answer.

9. Swissvale Borough is without sufficient knowledge and information to form a belief as to the truth of Norfolk Southern's claims with respect to the estimate for work needed on the Washington Street Bridge. For that reason, the allegations are denied for purposes of this Answer.

10. Swissvale Borough is without sufficient or information to assess the relevant costs of repair of the bridge and its ultimate replacement. For that reason the allegations are denied for purposes of this Answer. To the best of the Borough's knowledge, information and belief, repairs ordered by the Secretary would substantially improve the safety of the bridge, including the safety of rail, bus and emergency vehicle traffic below the bridge.

11. Admitted. The Borough admits that Norfolk Southern has offered to replace the bridge at its full cost and expense, but only on the condition that the Borough of Swissvale agree to complete responsibility for future maintenance and repair of the bridge, which proposal has been refused. The offer to replace the bridge made by Norfolk Southern indicates that it is well within its financial ability to replace the bridge fully. Moreover, Swissvale Borough, as a municipality of less than 10,000 residents, has no financial capacity to be responsible for maintenance or replacement of the Washington Street Bridge. In addition,

a. The Bridge was constructed for the benefit and purpose of accommodating the railroad's use of its main railway lines in Southwestern Pennsylvania and is a major benefit to Norfolk Southern;

b. The Borough's responsibility over decades of the existence of the Washington Street Bridge has been restricted to maintenance of the roadway surface and sidewalk, consistent with normal municipal responsibility for vehicular and pedestrian traffic;

c. Since the last major renovation of the Washington Street Bridge, Pittsburgh Regional Transit, formerly Port Authority of Allegheny County, has opened the Martin Luther King East Busway, a 9.1 mile roadway running parallel to the Norfolk Southern rail lines, which is an essential part of its transportation system for the eastern portion of the City of Pittsburgh and the Allegheny County eastern suburbs. Said busway carries nearly 30,000 riders daily and 7.5 million riders per year on buses passing under the Washington Street Bridge;

d. Because of the location of the Washington Street Bridge in the Borough of Swissvale, Washington Street and the Bridge are an essential part of the road system of the Eastern suburbs of Allegheny County, and use of the bridge by Swissvale residents constitutes only a small percentage of individuals who use the Washington Street Bridge;

e. In addition to the importance of the Washington Street Bridge to the safety of the trains, buses and emergency vehicles passing under the Bridge, the Pittsburgh Regional Transit uses the bridge for buses and vehicles to transport passengers including for access to the Swissvale Terminal at the end of the East Busway, further making the Bridge a critical part of the Pittsburgh Regional Transit system;

f. The Bridge is an essential portion of the road system used by emergency vehicles, including those providing police protection, fire protection, emergency medical treatment, as well as reducing the commuting time for residents and employees throughout the Eastern suburbs. The continued closure of the Bridge due to inadequate maintenance by the parties currently responsible would create a substantial inconvenience, burden and risk not only to Swissvale Borough residents, but to residents throughout the Eastern suburbs.

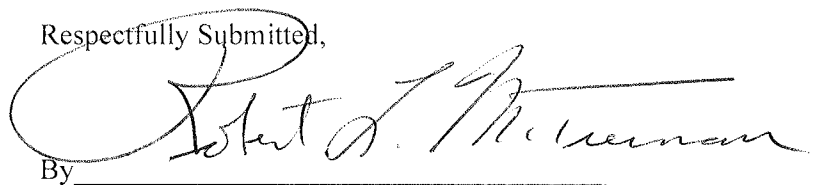
12. Swissvale Borough has no objection to virtual or onsite field meeting, provided it includes and involves participation of all parties with major responsibility for and interest in continued

safety and use of the bridge, not limited to Norfolk Southern, Allegheny County, Pittsburgh Regional Transit, formerly Port Authority of Allegheny County, Pennsylvania Department of Transportation.

13. Swissvale Borough is without sufficient knowledge and information to determine the truth of the allegations made. Norfolk Southern, however, should retain ongoing responsibility to prevent risks to residents, train traffic, bus traffic and emergency vehicle traffic using and passing beneath the Washington Street Bridge.

WHEREFORE, Swissvale Borough respectfully objects to rescission of the Order that Norfolk Southern make repairs to strengthen the Washington Street Bridge and protect public safety, and that Norfolk Southern continue to be responsible for these safety issues until a final resolution for repair or replacement of the bridge is made.

Respectfully Submitted,

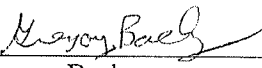
A handwritten signature in black ink, appearing to read "Robert L. McTiernan", written over a horizontal line.

By

Robert L. McTiernan, Solicitor
Swissvale Borough

VERIFICATION

I, Gregory Bachy, Manager of the Borough of Swissvale, hereby state that the facts set forth in the attached Answer to Petition for Rescission of Order are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the statements of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).



Gregory Bachy
Manager, Swissvale Borough

Dated: 8/30/22

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Priority 1 bridge repairs in response to a recent inspection at the public crossing (DOT 510 521 Y), where Washington Street crosses, above grade, the tracks of Norfolk Southern Railway Company, Port Authority of Allegheny County East Busway and Waverly Avenue located in the Borough of Swissvale, Allegheny County and exemptions from the minimum side clearances required by 52 Pa. Code, Section 33.122 : **Docket No. A-2022-3033069**
: **Filed Electronically**

CERTIFICATE OF SERVICE

I hereby certify that I served one (1) copy of the attached Answer to Petition for Rescission of Order in the above-referenced matter, this 31st day of August, 2022, upon the parties listed below by first class mail, postage prepaid and via electronic mail as indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

Benjamin C. Dunlap, Jr., Esquire
Nauman Smith Shissler & Hall
200 North 3rd Street, 18th Floor
Harrisburg, PA 17101
bdunlapjr@nssh.com

Rich Fitzgerald
Allegheny County Executive 101 County
Courthouse
436 Grant Street
Pittsburgh, PA 15219
executive@alleghenycounty.us

Eric W. White, Esquire Assistant Counsel
Pennsylvania Department of Transportation
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212 ewwhite@pa.gov

Jerome Vergenes
Peoples Natural Gas Company 1201 Pitt Street
Pittsburgh, PA 15221
Jerome.p.vergenes@peoples-gas.com

Cheryl Moon-Sirianni, P.E. PennDOT
Engineering District 11 45 Thomas Run Road
Bridgeville, PA 15017 csirianni@pa.gov

Kyle Tessmer
Duquesne Light Company
2825 New Beaver Avenue, Building 6
Pittsburgh, PA 15233 ktessmer@duqlight.com

Deborah Barum
Verizon Pennsylvania LLC 1026 Hay Street
Pittsburgh, PA 15221
Deborah.d.delia@verizon.com

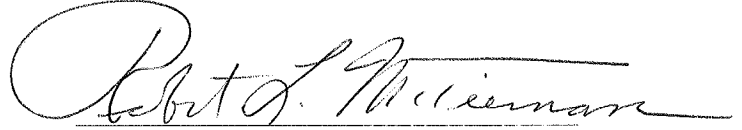
Vanessa Davis
Wilkesburg Penn Joint Water Authority 2200
Robinson Boulevard
Pittsburgh, PA 15221 vdavis@wpjwa.com

Dean Boyers Verizon Business
400 International Parkway
Richardson, TX 75081
Dean.boyers@verizonbusiness.com

Katharine Eagen Kelleman
Pittsburgh Regional Transit Authority
345 6th Avenue
Pittsburgh, PA 15222
kkelleman@portauthority.org

Date:

E. 31-22



Robert L. McTiernan