

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 Motion to Join Additional Respondent in connection with the 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:11228961-1 004565-040653

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Priority 1 bridge repairs in response to a recent : Docket No. A-2022-3033069
inspection at the public crossing (DOT 510 521 Y), :
where Washington Street crosses, above grade, the : Filed Electronically
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 :

NOTICE TO PLEAD

TO: Port Authority of Allegheny County, d/b/a Pittsburgh Regional Transit:

You are hereby notified to file a written response to the within Motion of Respondent, Swissvale Borough, within twenty (20) days of service hereof, or a judgment may be entered against you.

TUCKER ARENSBERG, P.C.



Robert L. McTiernan
Solicitor of Swissvale Borough

**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**

MOTION TO JOIN ADDITIONAL RESPONDENT

AND NOW comes the Borough of Swissvale (“Swissvale Borough”) by and through its undersigned solicitor, and files the following Motion to Join Additional Respondent as an indispensable party to the Petition for Rescission of Order filed by Norfolk Southern Railway Company (“Norfolk Southern”) in the above referenced matter, as follows:

1. On or about August 15, 2022, Norfolk Southern filed a Petition for Rescission of Order with the Public Utility Commission seeking to rescind an Order of the Pennsylvania Public Utility Commission requiring Norfolk Southern to make repairs to the Washington Street Bridge, located in the Borough of Swissvale. (The Petition is attached as Exhibit “A” to this Motion.)

2. In addition to passing over Norfolk Southern’s main rail lines, the Bridge passes over the Martin Luther King East Busway, a dedicated transit highway constructed, owned and operated by the Port Authority of Allegheny County d/b/a Pittsburgh Regional Transit.

3. The East Busway carries 30,000 passengers per day and nearly 7.5 million passengers per year on its buses that pass beneath the Washington Street Bridge.

4. In addition to the importance of the Washington Street Bridge to the safety of the passengers on the Busway, Port Authority also uses Washington Street in Swissvale, including the Washington Street Bridge, as an important part of its transportation system for transporting local

commuters throughout the Eastern suburbs, including to the Swissvale Busway Station, the terminal point of the East Busway.

5. The parties responsible for maintenance to the structure of the Bridge, which does not include Swissvale Borough, have created critical safety hazard by allowing the Bridge to fall into substantial disrepair. This safety hazard affects not only those using bus and rail transit beneath the Bridge, but emergency vehicles that use the Busway for rapid transportation.

6. An additional risk has been created because the parties responsible for maintenance of the Bridge have allowed it fall into such serious disrepair, so that the Bridge had to be closed on the recommendation of the Pennsylvania Department of Transportation so as not to endanger pedestrians and vehicular traffic using the sidewalks and surface of the Bridge.

7. The closing of the Bridge has created a major transportation crisis in the Easter suburbs because Washington Street and the Bridge are used by residents throughout the region. The Borough of Swissvale has had to devote additional police resources to maintain the flow of traffic through other areas of the Borough.

8. The closure of the Bridge also adds substantial commuting time not only for local residents, but places additional delays and burdens on emergency vehicles using Washington Street to reach residents who need police, fire or emergency medical services.

9. In its Petition, Norfolk Southern seeks to assign responsibility for future repair and maintenance of the Bridge.

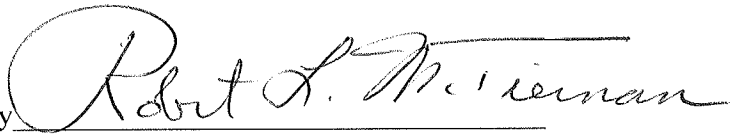
10. Norfolk Southern has asked for a site or a virtual meeting to determine future responsibility for repairs and maintenance to the Bridge.

11. The Port Authority of Allegheny County, d/b/a Pittsburgh Regional Transit, has a major stake and responsibility for the replacement, repair and continued maintenance of the Washington Street Bridge.

12. Any decision made with respect to the Bridge will have a major impact on the Port Authority's ability to provide future safe and efficient transportation to the residents of the Eastern suburbs of Allegheny County.

WHEREFORE, it is hereby moved that the Motion of Swissvale Borough to Join the Port Authority of Allegheny County, d/b/a Pittsburgh Regional Transit, as an indispensable party to any proceedings related to the Washington Street Bridge.

Respectfully Submitted,

By 

Robert L. McTiernan, Solicitor
Swissvale Borough



Benjamin C. Dunlap, Jr., Esquire

bdunlapjr@nssh.com

(717) 236-3010, Ext. 121

August 15, 2022

Via Electronic Filing

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

**Re: Priority 1 bridge repairs in response to a recent bridge 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**

Dear Secretary Chiavetta:

Enclosed please find the Petition for Recission of Order on behalf of Norfolk Southern Railway Company for filing in the above-referenced matter. A copy has been served upon all interested parties of record.

Sincerely yours,

Benjamin C. Dunlap, Jr.

BCDjr/ino

Enclosure

cc: All Parties of Record



**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Priority 1 bridge repairs in response to a recent bridge 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**

Petition for Rescission of Order

Norfolk Southern Railway Company (“Norfolk Southern”), by and through its undersigned counsel, hereby petitions for the rescission of the Secretarial Letter issued July 6, 2022, in the above referenced matter, pursuant to 66 Pa. C.S. § 703(g) and 52 Pa. Code § 5.572, based upon newly discovered facts, and in support thereof avers as follows:

1. By letter electronically filed with the Commission on June 13, 2022, Norfolk Southern requested Commission approval of its repair plans to address Priority 1 defects discovered during an NBIS bridge inspection in late 2021.
2. The proposed repair work included 1) removal of loose concrete, rubble and bricks from below the deck, 2) full-depth pavement removal and replacement with high early strength concrete in three (3) locations, 3) permanent and temporary shoring and 4) structural steel repairs to the through-girders. Commission approval was sought for the plans, as the proposed structural steel repair would alter the cross section of the through-girders and installation of a permanent shoring column would alter the load path and reduce the horizontal side clearance from the centerline of the eastern most track to the new shoring column to a minimum of ten (10) feet.

3. The Commission approved the repair plans filed by Norfolk Southern in its Secretarial Letter issued July 6, 2022. All work necessary to alter the crossing was ordered to be completed on or before October 31, 2022.
4. Since development of the repair plans, the Borough of Swissvale (“Borough”) has closed the bridge pursuant to the recommendation of the Pennsylvania Department of Transportation (“PennDOT”).
5. PennDOT performed an analysis on the bent between the Busway and Waverly Avenue after the bridge was closed. PennDOT’s analysis showed that strengthening of the existing bent between the Busway and Waverly Avenue would be required to reopen the bridge for vehicular traffic.
6. The repair plans approved by the Secretarial Letter do not include strengthening of the existing bent.
7. In addition to strengthening work to the existing bent, which has not yet been engineered, the bridge will also likely require floor system repairs and rehabilitation within the next several years.
8. Norfolk Southern’s estimate for work needed in the next several years is as follows:
 - Priority 1 repairs - \$400,000 (including engineering)
 - Strengthening of bent or installation of additional columns – \$300,000 (including engineering)
 - Floorbeam and deck replacement over Busway & Norfolk Southern and additional girder repairs - \$1.1 million (including engineering)
9. Norfolk Southern estimates the cost to replace the bridge at \$3 million.

10. The cost to repair the bridge over the next few years is a large percentage of the replacement cost, making the repairs an imprudent expenditure of money.
11. Norfolk Southern has offered to replace the bridge at its sole cost and expense if the Borough will accept future maintenance of the bridge. The Borough to date has declined Norfolk Southern's offer.
12. Norfolk Southern requests that a virtual field meeting be scheduled with the parties to discuss a process to forward to a resolution of the disposition of the bridge.
13. In the meantime, Norfolk Southern has completed the scaling of loose concrete from the underside of the deck over the Port Authority Busway the week of August 1, 2022, to address the immediate safety concerns of the Port Authority.

WHEREFORE, Norfolk Southern Railway Company respectfully requests that this Honorable Commission rescind its Secretarial Letter issued July 6, 2022, in this matter and schedule a virtual field meeting with the parties to discuss a process for bringing the issue of the future disposition of the bridge to a resolution.

Respectfully Submitted,

NAUMAN, SMITH, SHISSLER & HALL, LLP

By: *Benjamin C. Dunlap, Jr.*
Benjamin C. Dunlap, Jr., Esquire
Supreme Court I.D. #66283
200 North Third Street, 18th Floor
Harrisburg, PA 17101
Attorney for Norfolk Southern Railway Company

Date: August 15, 2022

VERIFICATION

I, Christopher P. Cawley, Regional Engineer Structures of Norfolk Southern Railway Company, hereby state that the facts set forth in the attached *Petition for Recission of Order* in the forementioned matter are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).



Christopher P. Cawley

Dated: August 15, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Priority 1 bridge repairs in response to a : Docket No.A-2022-3033069
**recent bridge inspection at the public :
crossing (DOT 510 521 Y), where : Filed Electronically**
**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 :**

CERTIFICATE OF SERVICE

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

Eric W. White, Esquire Assistant Counsel
Pennsylvania Department of Transportation
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executive@alleghenycounty.us

Greg Bachy, Borough Manager
Swissvale Borough
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Clyde Wilhelm, Codes
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Cheryl Moon-Sirianni, P.E.
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Dean Boyers
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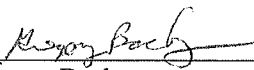
Vanessa Davis
Wilkinsburg Penn Joint Water Authority
2200 Robinson Boulevard
Pittsburgh, PA 15221
vdavis@wpjwa.com

Date: August 15,2022

/s/Ijeoma N. Okereke
Ijeoma N. Okereke

VERIFICATION

I, Gregory Bachy, Manager of the Borough of Swissvale, hereby state that the facts set forth in the attached Motion to Join Additional Respondent 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 Motion to Join Additional Respondent 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
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bdunlapjr@nssh.com

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Eric W. White, Esquire Assistant Counsel
Pennsylvania Department of Transportation
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Cheryl Moon-Sirianni, P.E. PennDOT
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Pittsburgh, PA 15233 ktessmer@duqlight.com

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

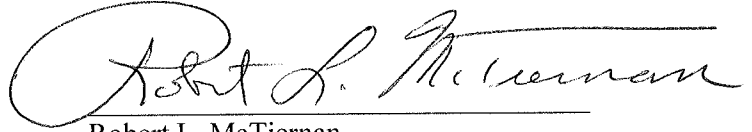
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Dean Boyers Verizon Business
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Dean.boyers@verizonbusiness.com

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

Date:

E-31-22



Robert L. McTiernan