



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

July 9, 2024

DATE OF DEPOSIT

JUL 09, 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street 2nd FL
Harrisburg, PA 17120

RE: A-2022-3031613

Dear Secretary Chiavetta,

Enclosed for filing please find the Department's *Amended Answer Objecting to Petition for Reconsideration from Staff Action* in the above-captioned matter. Please note only the title of the Petition has been amended from the original July 5, 2024 filing.

I hereby certify that a copy has been sent to all parties of record as indicated by the Certificate of Service.

Very truly yours,

Leah Jo Bobula
Assistant Counsel

Cc: Parties of Record
Mark Chappell, PennDOT, Division Chief, Right-of-Way, Utilities, Grade Crossing (Email)
Daniel Leonard, PennDOT, Grade Crossing Engineer (Email)
Sarah Fenton, PennDOT, Grade Crossing Engineer (Email)
Ahmed Lasloudji, District 8-0 Engineer (Email)
Richard Reisinger, District 8-0 Assistant District Executive- Design (Email)
Heidi Mertz, District 8-0 Civil Engineer Manger (Email)

DATE OF DEPOSIT

JUL 09, 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of :
Transportation, of the Commonwealth of :
Pennsylvania for approval to alter the public :
above grade crossing by the replacement of :
the existing bridge carrying State Route 0011 :
(West King Street) over track of Norfolk : Docket No. A-2022-3031613
Southern Railway Company (DOT 592 122 :
M) in Shippensburg Borough and :
Southampton Township, Franklin County, and :
the allocation of costs incident thereto. :
:

ANSWER TO PETITION FOR RECONSIDERATION

The Commonwealth of Pennsylvania, Department of Transportation (Department), by its counsel, Leah Jo Bobula, files this Answer Objecting to Petition for Reconsideration from Staff Action filed before the Public Utility Commission (Commission) by Norfolk Southern Railway Company (Norfolk Southern) and respectfully represents:

1. Admitted.
2. Denied. The Department lacks sufficient information regarding the internal procedures of Norfolk Southern.
3. Denied. The Department lacks sufficient information regarding the internal procedures of Norfolk Southern.
4. Denied. The Department lacks sufficient information regarding the internal procedures of Norfolk Southern.
5. Denied. Paragraph 5 contains a request for relief to which no response is required. To the extent that a response is required, the Department is not in agreement with the proposed amendments to paragraphs 10 and 11 of the May 28, 2024, Secretarial Letter¹.

¹ Note that the Petition for Reconsideration from Staff Action has a main provision numbered 5 and then sub paragraphs numbered 10 and 11 corresponding to the requested amendments of the May 28, 2024 Secretarial Letter.

6. Denied. By way of further explanation, the proposed amendments to the May 28, 2024 Secretarial Letter's Paragraph 8 will not help to ensure an adequate supply of flaggers nor serve the public interest. Norfolk Southern's proposed amendments attempt to shift the burden to the Department and its contractors; yet any flagging vendor chosen would still be required to be approved by Norfolk Southern. As such, Norfolk Southern's current approved list of vendors, which contains a mere three options, will not ensure an increase of the amount of approved flagging vendors if the Secretarial Letter is modified. By shifting the burden to the Department and its contractors but still requiring the flagging vendor to be pre-approved by Norfolk Southern, the requested amendments eliminate Norfolk Southern's direct connection and oversight over the flagging vendor. This elimination of oversight contradicts Norfolk Southern's assertion that the amendments will serve the public interest, and instead, would only diminish public safety by holding PennDOT legally responsible for activities that Norfolk Southern would have exclusive control over via its internal procedures, which can be revised at any time without PennDOT or Commission input. Therefore, the proposed changes will not help to ensure an adequate supply of flaggers nor better serve the public interest. Norfolk Southern should not, at its "sole option" be able to control a process that the Commission has exclusive jurisdiction under, particularly when it relates to safety.

7. Denied. By way of further explanation, the Department denies that the subject of flagging was not specifically raised on May 26, 2022, during the field investigation and conference, as the parties discussed and agreed that flagging costs would be incurred by the Department. Paragraph 10 of the May 28, 2024 Secretarial Letter properly imposes those terms agreed upon during the field investigation. As such, the Department respectfully requests that Norfolk Southern's Petition for Reconsideration from Staff Action be denied.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Leah Jo Bobula, Esq.
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Commonwealth of Pennsylvania
Department of Transportation
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DATED: July 5, 2024

DATE OF DEPOSIT

JUL 09 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

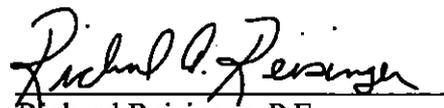
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of :
Transportation of the Commonwealth of :
Pennsylvania for approval to alter the :
public above grade crossing by the :
replacement of the existing bridge carrying :
State Route 0011 (West King Street) over :
track of Norfolk Southern Railway :
Company (DOT 592 122 M) in :
Shippensburg Borough and Southampton :
Township, Franklin County, and the :
allocation of costs incident thereto. :

Docket No. A-2022-3031613

VERIFICATION

I, Richard Reisinger, P.E., Assistant District Executive - Design,
Pennsylvania Department of Transportation, do state that I am authorized to
make this statement on behalf of the Pennsylvania Department of
Transportation's District 8-0 and verify that I have read the attached Answer
Objecting to Petition for Reconsideration from Staff Action and that the
within information is true and correct to the best of my knowledge,
information, and belief. To the extent that the contents of the pleading are
that of counsel, Verifier has relied upon counsel in making this verification.
This verification is made subject to the penalties of 18 Pa.C.S. § 4904,
relating to unsworn falsification to authorities.


Richard Reisinger, P.E.

Date: 07-05-2024

DATE OF DEPOSIT

JUL 09 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of :
Transportation of the Commonwealth of :
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Southern Railway Company (DOT 592 122 M) :
in Shippensburg Borough and Southampton :
Township, Franklin County, and the allocation :
of costs incident thereto. :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below, in accordance with the requirements of 52 Pa. Code §1.54, by:

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Sam Cressler Southampton Township 705 Municipal Drive Shippensburg, PA 17257	William Dempster UGI Utilities Inc. 1301 AIP Drive Middletown, PA 17057
David Keller, Chairman Franklin County Commissioners 272 North Second Street Chambersburg, PA 17120	John Yurko Comcast Cable Communications, Inc. 339 Baltimore Street Shippensburg, PA 17257
Dwain Koser Cumberland/Franklin Joint Municipal Authority 204 West King Street Shippensburg, PA 17257	Stuart Miller Pennsylvania Electric Company 1910 West Market Street Akron, OH 44313

Respectfully submitted,
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



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DATED: July 5, 2024