

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

In re: Petition of the Borough of Royersford, Pennsylvania for Emergency Order

Docket No. P-2025-3056530

EX PARTE EMERGENCY ORDER

On July 28, 2025, the Borough of Royersford (Borough) filed a Petition for *Ex Parte* Emergency Order (Petition) pursuant to 52 Pa. Code § 3.3 (disposition of *ex parte* emergency orders) seeking *ex parte* emergency relief from the Commission to address dangerous conditions at two railroad crossings in the Borough.¹ In its Petition, the Borough asks that the Commission determine that it has demonstrated that dangerous conditions exist at the Main and Arch Street railroad crossings which qualify as an emergency situation. Upon such a finding, the Borough respectfully requests that the Commission grant it the following relief: (1) the closure of the affected crossings during the repair of the defective crossing or, in the alternative, issue a stop and protect order, where all trains are stopped and a safety check is performed at each stop before each crossing; (2) direct that an emergency response team be available within a certain time frame in the event of malfunctions, as the current response time is unacceptable; (3) implement a traffic control plan, at the expense of Norfolk Southern Railway Company (NS)² and (4) allocate all costs for all of the above activities to NS and PECO Energy Company (PECO). For the reasons set forth below, the Borough's Petition is hereby granted, in part, and denied, in part.

¹ On July 30, 2025, Norfolk Southern Corporation (NSC) filed a letter responding to the Petition. As noted in that letter, at 1, the Commission's regulations on *ex parte* emergency orders, 52 Pa. Code §§ 3.2–3.4, do not provide for a response to an emergency petition. Therefore, the letter is procedurally defective, and I shall disregard it.

² I note that the correct entity that owns and operates the railway is NS, not its holding company NSC.

Emergency relief is granted in situations that present a clear and present danger to life or property or are uncontested and require action prior to the next scheduled public meeting. 52 Pa. Code § 3.1 (definition of “emergency”). A petition for *ex parte* emergency order must be supported by a verified statement of facts that establish the existence of an emergency and the following:

- (1) The petitioner’s right to relief is clear.
- (2) The need for relief is immediate.
- (3) The injury would be irreparable if relief is not granted.
- (4) The relief requested is not injurious to the public interest.

52 Pa. Code § 3.2(b).

In its Petition, the Borough alleges that two railroad grade crossings within the Borough pose “an immediate danger to the safety and welfare of the public.” Petition at 1. According to the Borough, “[t]he crossing gates and warning lights at these railroad crossings have increasingly malfunctioned over a period of years and with enough frequency to pose a serious risk of harm to the public.” *Id.* The Borough further avers that both NS and PECO, an electric distribution company, which operates a transmission line parallel to the rail line, “have identified the [PECO] transmission line as a factor in the malfunctions, due to induced voltage.” *Id.* The Borough alleges that since 2017, “the railroad crossing warning devices at these locations—including crossing gates and automatic crossing signals—would occasionally malfunction and activate without any train being present in the area.” Petition ¶ 10. The Borough avers that since August 2024, malfunctions have been occurring at a greater frequency than before. Petition ¶ 13-15. The Borough reports that “[w]hen a malfunction occurs and the crossing warning devices activate erroneously, the activation can last multiple hours, which causes great inconvenience for local residents and first responders.” Petition ¶ 16. When malfunctions occur, the Borough avers that “some drivers have resorted to driving around the crossing gates and through the defective crossing—despite activation of the warning

equipment and despite the potential (or actual) presence of an approaching train.”
Petition ¶ 17.

Upon review, I find that the Borough has demonstrated the existence of an emergency as defined by our regulations. The averments set forth in the Petition identify a long-standing and ongoing series of malfunctions at two crossings within the Borough which pose a risk of harm to the public. These allegations rise to the level of a “clear and present danger to life or property” to justify an *ex parte* emergency order. *See, Petition of National Fuel Gas for Emergency Order Granting a Temporary Waiver of Certain Tariff Rules Related to Transportation Service*, Docket Nos. P-961022 and P-961021 (Order entered March 19, 1996) (the threat of depletion of gas stores in unusually cold conditions constituted a clear and present danger to life or property justifying the waiver of charges for over deliveries required by tariff); *and see, Emergency Application of the Dep't of Transportation of the Commonwealth of Pennsylvania & City of Pittsburgh for the Approval to Abolish the Pub. Above Grade Crossing & Remove the Bridge Carrying the Abandoned Cartway of Pittsburgh & W. Virginia Ry. Co. (& W. Side Belt R.R. Co.) Above S.R. 0051 in the City of Pittsburgh, Allegheny Cnty. & the Allocation of Costs Incident Thereto Petition for Interim Emergency Ord. Under 52, No. A-2024-3048837*. (Order entered July 1, 2024) (the poor and deteriorating condition of an old railroad bridge which led to the closing of the bridge deck for safety reasons, and the threat posed by the continuing deterioration and risk of the need for prolonged closure of the road below, gave rise to an “emergency” as defined in the Commission’s regulations).

Further, the Petition satisfies the standards for emergency relief set forth in 52 Pa. Code § 3.2(b). The Borough alleges that NS’s failure to ensure proper function of the crossing equipment is dangerous to the safety and welfare of the public. The Borough alleges that the malfunctioning protections violate Section 33.21(b) of the Commission’s regulations, which prohibits the railroad from “remov[ing] the protection afforded by . . . crossing gates, . . . automatic crossing signals, or any other protection against accidents”

or “substitut[ing] or alter[ing] any existing form of protection at crossings, at grade, of the tracks of a carrier across a public highway, or the tracks of another carrier.” 52 Pa. Code § 33.21(b). The Borough further alleges that the malfunctioning equipment at the crossings exemplifies conditions that are “danger[ous] to the safety and welfare of the public at any... crossing” pursuant to Section 2702(f) of the Public Utility Code, 66 Pa.C.S. § 2702(f). The Borough has raised substantial legal questions and thereby demonstrated a clear right to relief. *T.W. Phillips Gas and Oil Company v. Peoples Natural Gas Company*, 492 A.2d 776 (Pa. Cmwlth. 1985) (it is not necessary to determine the merits of the controversy in order to find that a petitioner's right to relief is clear; rather, the only required determination is that the petition raises substantial legal questions).

Additionally, the Borough has demonstrated that there is a need of immediate relief, that there may be irreparable injury if relief is not provided, and that granting relief is in the public interest. The Borough alleges:

Every day that passes without a proper, speedy resolution of this problem is another day that the residents, visitors, and first responders of the Borough risk being severely injured or killed by an accident involving [a NS] train at one of these defective crossings.

I agree with the Borough that the present situation at the crossing, as described by the Borough, must be addressed immediately. The Borough has documented, including through a voluminous set of police reports, serious, ongoing and dangerous conditions at the crossings which demonstrate a need for immediate relief, the risk of irreparable harm and that an emergency order is in the public interest.

However, the relief sought by the Borough will not be granted in full, since this matter should be more appropriately considered in a formal proceeding before the Office of Administrative Law Judge. For these reasons, I will grant the Petition in part, finding

that an emergency exists and that the Borough has demonstrated *ex parte* emergency relief is appropriate, but I will deny the relief requested in the Borough's Petition and grant the relief as detailed below; **THEREFORE,**

IT IS ORDERED:

1. That the Borough's Petition is hereby granted, in part, and denied, in part.
2. The Commission's Bureau of Technical Utility Services is directed to meet and confer with all interested parties within twenty (20) days of the date of this Emergency Order to consider options for immediate remediation of the dangerous conditions at the crossings. Matters to be addressed include interim operational responsibility and interim allocation for any remediation costs.
3. The Borough's Petition is referred to the Office of Administrative Law Judge for adjudication as a formal complaint, on an expedited basis.
4. That a copy of this Order be served on the Borough of Royersford, Norfolk Southern Railway Company, Norfolk Southern Corporation, PECO Energy Company, the Office of Consumer Advocate, the Office of Small Business Advocate and the Commission's Bureau of Investigation and Enforcement and Bureau of Technical Utility Services.

Date: 8/11/2025


Stephen M. DeFrank, Chairman