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AN EXELON COMPANY

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July 31, 2025

**VIA ELECTRONIC FILING**

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**Re: Petition of the Borough of Royersford, Pennsylvania for Emergency Order**  
**Docket No. P-2025-3056530**

Dear Secretary Homsher:

On July 28, 2025, the Borough of Royersford (“Borough”) filed its Petition for Emergency Order (“Petition”) in the above-captioned proceeding seeking the issuance of an *ex parte* emergency order from the Pennsylvania Public Utility Commission (“PUC” or “Commission”) pursuant to 52 Pa. Code § 3.1 *et. seq.* The Borough asked for the order to direct Norfolk Southern Corporation (“NS”) and PECO Energy Company (“PECO” or the “Company”) to, among other things, immediately alter and/or improve two railroad crossings within the Borough (the “Crossings”). NS filed a letter response to the Petition on July 30, 2025.<sup>1</sup>

As set forth more fully below, PECO respectfully requests that the Commission decline to grant the requested emergency order since the facts presented by the Borough do not constitute an “emergency” as defined in the Commission’s regulations or demonstrate the other required elements for an emergency order set forth in 52 Pa. Code § 3.2(b). However, PECO does not take the Borough’s concerns or the Petition lightly. PECO is committed to determining the cause of the malfunctions at the Crossings and mitigating any issues that are found to result from PECO’s equipment. To that end, PECO has already engaged an expert, Advanced Grounding Concepts (“AGC”), to perform a study to determine if there are induction issues at the crossings caused by PECO’s equipment and, if there are, identify the root causes of such issues and recommend actions that the Company can take to mitigate impacts to NS’

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<sup>1</sup> See, *Letter from Jeffrey D. Cohen to Secretary Homsher re: Borough of Royersford’s Petition for Emergency Order*, Docket No. P-2025-3056530 (July 30, 2025) (“NS Letter”).

equipment.<sup>2</sup> PECO expects that, based on AGC’s estimate, the study will take approximately three to four months to complete. However, it will require the prompt cooperation and continued engagement of NS. The Borough and NS are aware of this and NS has agreed to cooperate in the performance of the study.

Although PECO believes that issuance of an emergency order would be improper here, PECO voluntarily proposes to (1) provide the Commission with a written update on the status of the AGC study no later than October 1, 2025; and (2) within thirty (30) days after the AGC study is complete, provide a further written update to the Commission regarding the AGC study’s conclusions. As noted below, Commission staff from the Commission’s Electric Safety and Railroad Safety Divisions are already aware of the issues at the Crossings and have participated in discussions with the parties. PECO welcomes the continued involvement of Commission staff as it continues to work with the Borough and NS to address these issues.

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### **The Petition Does Not Meet the Commission’s Requirements for an Emergency Order**

PECO respectfully requests that the Commission decline to grant the requested emergency order. Under the Commission’s regulations, a petition for emergency order must, at the outset, establish the existence of an emergency.<sup>3</sup> An “emergency” is defined by the Commission’s regulations as “[a] situation which presents a clear and present danger to life or property or which is uncontested and requires action prior to the next scheduled public meeting.”<sup>4</sup>

The Petition itself illustrates that there is no “clear and present danger to life or property.” As the Borough’s Petition makes clear, the “emergency” is based entirely on the “occasional malfunction” of the railroad crossing warning devices at the Crossings and activation “*without any train being present in the area.*”<sup>5</sup> Such activations are not new; as the Petition acknowledges, the alleged occasional activations date back to 2017.<sup>6</sup> Moreover, even if the Commission were to accept the Borough’s position that the alleged occasional activations have, after many years, become a clear and present danger to life and property, Commission staff are already working with the Borough, PECO, and NS to resolve the issue, and the Borough has failed to establish that immediate Commission action is required prior to the Commission’s next publicly scheduled meeting on August 14, 2025, as required by 52 Pa. Code § 3.1.<sup>7</sup>

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<sup>2</sup> PECO disagrees with NS’ assertions that induction from PECO’s transmission line is definitively the cause of malfunctions at the Crossings. *See NS Letter*, p. 2. That may be the case, and if it is, PECO is prepared to take actions to mitigate any impact to NS’ equipment. However, that has not yet been determined and that is why the AGC study must be completed. PECO also takes issue with NS’ statement that it needed to “incite action” from PECO. *Id.* PECO has been actively engaged with the Borough, NS, and Commission staff to address the issues at the Crossings and PECO has voluntarily agreed to conduct the AGC study.

<sup>3</sup> 52 Pa. Code § 3.2(b).

<sup>4</sup> 52 Pa. Code 3.1.

<sup>5</sup> Petition, ¶ 10 (emphasis added); *see also id.* ¶ 15 (referring only to “errant crossing activations” in 2025).

<sup>6</sup> *Id.* ¶ 10.

<sup>7</sup> Notably, the Borough also alleges that it made a determination to initiate a proceeding against PECO and NS on July 3, 2025, but did not file the Petition until July 28, 2025. The Borough does not explain why, if a true emergency existed, it waited another 25 days to seek relief.

In its Petition, the Borough alleges that:

- Starting around 2017, the railroad crossing warning devices at the Crossings would occasionally malfunction and activate without any train being present in the area.<sup>8</sup>
- NS investigated the issue and commissioned a report to study the issues and recommend mitigation measures in 2023.<sup>9</sup>
- Beginning in August 2024 and continuing into 2025, the railroad crossing warning devices began to malfunction with increasing frequency.<sup>10</sup>
- The malfunctions in the crossing warning devices result in “great inconvenience” since crossing gates may remain down for extended periods and some drivers may drive around crossing gates.<sup>11</sup>
- The Borough met with NS, PECO, members of the Commission, and State Senator Katie Muth on June 17, 2025 to discuss how to address issues at the Crossings.<sup>12</sup>
- The Borough again met with representatives of the Commission, Senator Muth, and Representative Joseph Ciresi on July 3, 2025, at which time the Borough resolved to file an action against NS and PECO.<sup>13</sup>

Contrary to the Borough’s assertion that an “emergency” exists requiring Commission action prior the Commission’s next scheduled public meeting,<sup>14</sup> the Borough’s averments, if true, establish that the alleged issues at the Crossings have been occurring on occasion for approximately eight years without incident other than inconvenience to drivers in the Borough.<sup>15</sup> While the Borough alleges that the number of activations have increased since 2024, the materials included with the Petition establish that the signal activations are occurring only a few times a month.<sup>16</sup>

Despite the Borough’s assertion that people might be “severely injured or killed by an accident involving an NS train at one of these defective crossings”<sup>17</sup> in an apparent effort to meet Commission requirements for immediate relief and irreparable injury in the absence of such relief, the Petition does not allege that any activations have occurred when a train is in the area of the Crossings. Instead, the Borough apparently believes that the Commission should act because the Borough has alleged that an unspecified number of its citizens may not stop at railroad crossings when warning signs are properly functioning<sup>18</sup> and the Borough is unable to stop them from doing so. Such allegations, which are unsupported by any specific data, do not establish an “emergency” as defined by the Commission.

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<sup>8</sup> Petition ¶ 10.

<sup>9</sup> *Id.* ¶¶ 11-13.

<sup>10</sup> *Id.* ¶¶ 13-15.

<sup>11</sup> *Id.* ¶¶ 16-17.

<sup>12</sup> *Id.* ¶ 19.

<sup>13</sup> *Id.* ¶ 21.

<sup>14</sup> *See id.* ¶ 30.

<sup>15</sup> PECO acknowledges that the traffic impacts are a true nuisance to drivers in Royersford, but does not believe they rise to the level of an “emergency” warranting emergency relief under the Commission’s regulations.

<sup>16</sup> *See id.*, Exhibits B and C.

<sup>17</sup> *Id.* ¶ 35.

<sup>18</sup> *Id.* ¶ 40.

The Commission’s Electric Safety and Railroad Safety Divisions are already aware of the alleged issues at the Crossings and involved in the discussions with the Borough, NS, and PECO to identify the reasons for the alleged malfunctions and to assist in reaching a resolution.<sup>19</sup>

Regrettably, neither the Petition nor the NS Letter appropriately reflect PECO’s commitment to identifying the cause of the activations at the Crossing, its attention to this issue, or its voluntary proposal to conduct a further study to identify impacts from PECO’s transmission line on NS’ equipment at the Crossings. As noted earlier in this letter, PECO recently engaged AGC to perform a study to determine whether there is any transmission line impact to the railroad. PECO discussed this study with the Borough, NS, and Commission staff at the June 17<sup>th</sup> meeting. PECO believes that this study and the associated discussions between staff and stakeholders are in the public interest and should continue in an effort to develop practical solutions to the activation issue. “Immediate repair,” as requested by the Borough,<sup>20</sup> without further understanding of the actual cause of malfunctions at the Crossings, is not consistent with the public interest. PECO understands the Borough’s desire to eliminate these malfunctions as quickly as possible – and PECO is committed to doing so – but that will require completion of the appropriate studies with NS’ cooperation and a reasonable amount of time to implement any recommended mitigation actions.

### Conclusion

While it is the Borough’s right to seek formal relief before the Commission, it would be improper to issue an *ex parte* emergency order absent a true “emergency” under the Commission’s regulations. Indeed, for all of the foregoing reasons, the Commission should therefore decline to issue the requested *ex parte* emergency order.

Nevertheless, PECO voluntarily commits to (1) provide the Commission with a written update on the status of the AGC study no later than October 1, 2025; and (2) within thirty (30) days after the AGC study is complete, provide a further written update to the Commission regarding the AGC study’s conclusions.

Respectfully,



Anthony E. Gay

c: Certificate of Service

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<sup>19</sup> See *id.* ¶¶ 19 & 21.

<sup>20</sup> *Id.* ¶ 42.



Dated: July 31, 2025



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