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August 15, 2025

Via Electronic Filing

Matthew L. Homsher Secretary
Pennsylvania Public Utility Commission
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:

Enclosed for electronic filing, please find the Borough of Royersford's Prehearing Memorandum in the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Carl R. Shultz
Carl R. Shultz

CRS/lww
Enclosure

cc: Hon. Christopher P. Pell w/enc. (cpell@pa.gov)
Hon. F. Joseph Brady w/enc. (fbrady@pa.gov)
Certificate of Service (w/enc)
Rodney Bender, PA PUC (w/enc) (rodbender@pa.gov)

CERTIFICATE OF SERVICE

I hereby certify that on this day, I served a copy of the Borough of Royersford Prehearing Memorandum upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Electronic Mail

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Dated: August 15, 2025

/s/ Carl R. Shultz

Carl R. Shultz, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**PREHEARING MEMORANDUM OF
THE BOROUGH OF ROYERSFORD, PENNSYLVANIA**

Pursuant to 66 Pa. C.S. § 333, 52 Pa. Code §§ 5.221–5.224, and the Prehearing Conference Order issued on August 4, 2025 by Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge F. Joseph Brady (“ALJs” or “Judges”), the Borough of Royersford, Pennsylvania (“Borough” or the “Petitioner”) submits this Prehearing Memorandum.

I. BACKGROUND AND PROCEDURAL HISTORY

On July 28, 2025, the Borough filed a Petition for Emergency Order (“Petition”) with the Pennsylvania Public Utility Commission (“Commission”) with regard to two dangerous railroad grade crossings. The Borough maintains that the crossing gates and warning lights at these railroad crossings have increasingly malfunctioned over a period of years and pose a serious risk of harm to the public.

These railroad crossings are part of the Norfolk Southern Corporation (“NS”) railroad system and share a right-of-way (“ROW”) with a PECO Energy Company (“PECO”) owned transmission line, and both NS and PECO have identified the transmission line as a factor in the malfunctions due to induced voltage.

In its Petition, the Borough maintains that the malfunctioning crossing equipment threatens serious harm or death to pedestrians crossing the railroad tracks, and that NS and PECO have failed to fix the issue in a timely fashion, despite multiple years of malfunctions—constituting an emergency in need of immediate, *ex parte* relief.

The Petition was docketed at P-2025-3056530. On July 30, 2025, NS submitted a “position statement” in response to the Petition, denying that the situation constituted an emergency and advancing other arguments as to why the Commission should deny the Petition. On July 31, 2025, PECO submitted a “letter response” similarly arguing that the Commission should deny the Petition.

On August 1, 2025, Chairman Stephen M. DeFrank issued an *ex parte* order (“Emergency Order” or “Order”) granting the Borough’s Petition in part and denying the Petition in part. The Emergency Order directed the Commission’s Bureau of Technical Utility Services (“TUS”) to meet and confer with all interested parties within twenty days of the date of the Order to “consider options for immediate remediation of the dangerous conditions at the crossings” and address “interim operational responsibility and interim allocation for any remediation costs.” The initial meeting between the parties occurred on-site on August 14, 2025. The Emergency Order also referred the Petition to the Commission’s Office of Administrative Law Judge for adjudication as a formal complaint on an expedited basis, which is the instant matter. The Emergency Order did not consider the correspondence submitted by NS or PECO¹ and on

¹ Footnote 1 of the Order described NS’s letter as “procedurally defective” and did not address the correspondence submitted by PECO. That same footnote correctly noted that the Commission’s regulations on *ex parte* emergency orders do not provide for a response to an emergency petition. *See* 52 Pa. Code §§ 3.2–3.4.

August 14, 2025, the full Commission unanimously ratified the Emergency Order at its public meeting.

II. REPRESENTATION

The Borough's attorneys in this matter are:

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III. PRESENTLY IDENTIFIED ISSUES

The 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.² The issues to be addressed revolve solely around the remediation of the dangerous, defective crossing equipment. This includes determining the precise cause for these equipment malfunctions; determining which party or parties are responsible for rectifying the equipment failures and ensuring that such failures do not continue to occur; and allocating associated costs. Further, when the crossing gates malfunction (i.e., go up and down or stay down with no train in

² Royersford Borough Petition for Ex Parte Emergency Relief at 1.

the area), it causes extreme traffic backups in the Borough that have taxed the Borough Police and Fire Department by requiring them to provide alternative routes and direct traffic, sometimes for hours at a time. The Borough maintains that NS should be required to provide for an emergency response team within a reasonable time and a traffic control plan at the expense of NS.

Importantly, the Borough maintains that the required remediation must occur as soon as possible because these crossings pose an immediate danger to the safety and welfare of the public.³ The Borough has endured years of crossing equipment malfunctions and a lack of clear communication from NS or PECO as to the timeline for solving this problem.

IV. BUREAU OF TECHNICAL UTILITY SERVICES ON-SITE MEETING

In accordance with the Emergency Order entered in this matter on August 1, 2025 and unanimously ratified by the full Commission on August 14, 2025, the Commission’s Bureau of TUS convened an on-site meeting of interested parties at one of the crossings in Royersford Borough on August 14, 2025. Approximately eighteen (18) people were in attendance, including:

- Borough of Royersford representatives: Scot Fennelly, the Borough Chief of Police; Donna Ziegler, Borough Manager; Kevin Kerwin, Borough Fire Chief; Devin Ralph, Borough Solicitor; Craig Keffer, Borough Public Works Director; and Jessica Wong, Assistant Borough Manager;
- Philadelphia Electric Company (“PECO”);
- Norfolk Southern (“NS”);
- Pennsylvania Department of Transportation (“PennDOT”); and,
- Commission Staff.

Representatives from the Borough advised that the last false activation occurred on August 7, 2025. The parties discussed both short-term and long-term potential fixes to the false

³ *Id.*

activations of the subject crossings. NS agreed to file an emergency “plan of action” with TUS within ten business days that will detail their procedures when a false activation occurs. NS also indicated that they would research the possibility of obtaining a “flagger force” that can be dispatched when a false activation occurs to prevent the public from crossing the tracks, so that the Borough does not have to shoulder that responsibility. PECO representatives indicated that a study concerning the cause of the false activations will not be completed until approximately the middle or end of October, and any required construction may not be able to be done during the winter months. TUS representatives indicated that the official results of that first meeting will likely be memorialized in a Secretarial Letter. The parties present also agreed that there will be another meeting between the parties and TUS in approximately two weeks by Zoom, where the parties will continue to discuss the issues and receive updates from NS regarding the potential deployment of a flagger force.

The Borough views both an “emergency response plan” of action and a “flagger force” as potentially positive and effective short-term proposals to mitigate the effects of the ongoing false activations at the subject crossings; however, all of the issues presented in Section III of this Prehearing Memo, including the causes and permanent remediation of the dangerous, defective crossing equipment, should be addressed before this matter is closed.

V. WITNESSES

The Borough is still in the process of identifying its witnesses; however, at a minimum, anticipates presenting the testimony of: (1) Anil Dham, President of the Borough Council, as a fact witness; (2) Scot Fennelly, the Borough Chief of Police, as a fact witness; (3) Donna Ziegler, Borough Manager, as a fact witness; and (4) Kevin Kerwin, the Borough Fire Chief, as a fact witness. All of the factual issues to be addressed in this proceeding are expected to be

within the knowledge, information, and belief of each fact witness. The Borough does not anticipate presenting an expert witness at this time.

The Borough reserves its right to add additional witnesses or change its witnesses at any time upon appropriate notice to the ALJs and the parties.

VI. PROCEDURAL SCHEDULE

The Borough will cooperate with the ALJs and the parties at the Prehearing Conference to develop a complete procedural schedule, including for testimony, hearings, and briefs. The Borough is also willing to discuss the possibility of the ALJs initially presiding as Mediators in this matter, as long as progress toward immediate and long-term resolutions of the false activation of these crossings and the appropriate allocation of costs are properly addressed in mediation.

VII. DISCOVERY

The Borough will cooperate with the ALJs and the parties to develop an appropriate plan and schedule for discovery in accordance with the Commission's regulations and any ALJ directives, including the adoption of a Protective Order in this matter.

VIII. SETTLEMENT

The Borough is willing to discuss the settlement of any or all aspects of this proceeding.

Respectfully submitted,

/s/ Carl R. Shultz

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Date: August 15, 2025