

JEFFREY D. COHEN  
DIRECT DIAL: 215-609-1104  
JCOHEN@FREIGHTLAW.NET

## COHEN & FREY P.C.

A TRANSPORTATION LAW PRACTICE

THE TIMES BUILDING  
32 PARKING PLAZA  
SUITE 402  
ARDMORE, PA 19003

(215) 609-1110  
FAX (215) 609-1117

August 15, 2025

**Via Electronic Filing**

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

**Re: Borough of Royersford's Petition for Emergency Order  
Docket No. P-2025-3056530  
Our File No. 4613.437**

---

Dear Secretary Homsher:

Enclosed please find the Prehearing Conference Memorandum of Norfolk Southern Railway Company for filing in the above-referenced matter. Copies have been served upon all interested parties of record.

Respectfully Submitted,

COHEN & FREY P.C.

By: /s/ Jeffrey D. Cohen  
Jeffrey D. Cohen  
Timothy L. Frey

Encl.

cc: All Parties of Record

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of the Borough of Royersford,  
Pennsylvania for Emergency Order**

**Docket No. P-2025-3056530**

**Electronically Filed**

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing Prehearing Conference Memorandum of Norfolk Southern Railway Company in the above-captioned proceeding this day via electronic mail addressed to the following:

Carl R. Shultz, Esquire  
Renardo L. Hick, Esquire  
Eckert Seamans Cherin & Mellott LLC  
213 Market Street, 8th Floor  
Harrisburg, PA 17101  
[cshultz@eckertseamans.com](mailto:cshultz@eckertseamans.com)  
[rhicks@eckertseamans.com](mailto:rhicks@eckertseamans.com)  
*Counsel for the Borough of Royersford*

Stephen M. Pemberton, Esquire  
Eckert Seamans Cherin & Mellott LLC  
Two Liberty Place, 22nd Floor  
50 South 16th Street  
Philadelphia, PA 19102  
[spemberton@eckertseamans.com](mailto:spemberton@eckertseamans.com)  
*Counsel for the Borough of Royersford*

Benjamin C. Dunlap, Jr., Esquire  
Cohen Seglias Pallas Greenhall & Furman  
PC  
240 North 3rd Street, 7th Floor  
Harrisburg, PA 17101  
[bdunlap@cohenseglias.com](mailto:bdunlap@cohenseglias.com)  
*Counsel for Norfolk Southern Corporation*

Allison C. Kaster, Esquire  
PA PUC BIE Legal Technical  
Second Floor West  
400 North Street  
Harrisburg, PA 17120  
[akaster@pa.gov](mailto:akaster@pa.gov)

Darryl A. Lawrence, Esquire  
Office of Consumer Advocate  
5th Floor Forum Place  
555 Walnut Street  
Harrisburg, PA 17101-1923  
[dlawrence@paoca.org](mailto:dlawrence@paoca.org)

Nazaarah Sabree  
Office of Small Business Advocate  
555 Walnut Street  
Forum Place, 1st Floor  
Harrisburg, PA 17101  
[ra-sba@pa.gov](mailto:ra-sba@pa.gov)

**COHEN & FREY P.C.**

Date: August 15, 2025

By: /s/ Timothy L. Frey  
Jeffrey D. Cohen  
Timothy L. Frey

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of the Borough of Royersford,  
Pennsylvania for Emergency Order**

**Docket No. P-2025-3056530**

**Electronically Filed**

**PREHEARING CONFERENCE MEMORANDUM OF  
NORFOLK SOUTHERN RAILWAY COMPANY**

Norfolk Southern Railway Company (“Norfolk Southern”), by and through its undersigned counsel, hereby submits this Prehearing Conference Memorandum pursuant to the Prehearing Conference Order issued by Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge F. Joseph Brady on August 4, 2025, and the continuance granted on August 7, 2025, extending the time for filing this memorandum until noon on August 15, 2025.<sup>1</sup>

**I. Service List**

All correspondence and documents to be served in this matter should be on Norfolk Southern via the following:

Jeffrey D. Cohen  
Timothy L. Frey  
Cohen & Frey P.C.  
The Times Building  
32 Parking Plaza, Suite 402  
Ardmore, PA 19003  
jcohen@freightlaw.net  
[tfrey@freightlaw.net](mailto:tfrey@freightlaw.net)

Benjamin C. Dunlap, Jr.  
Cohen, Seglias, Pallas,  
Greenhall & Furman, PC  
240 North Third Street, 7th Floor  
Harrisburg, PA 17101  
bdunlap@cohenseglias.com

---

<sup>1</sup> The emergency petition filed by the Borough of Royersford (the “Borough”) improperly alleged that Norfolk Southern Corporation (“NSC”) was the railroad responsible for the operation of the signals and gates at the two crossings that are the subject of this matter. NSC is not a utility, and the PUC does not have jurisdiction over NSC. The *Ex Parte* Emergency Order issued by the PUC on August 1, 2025, acknowledge the error in the original petition and ordered that the Emergency Order be issued on, among others, NSC and Norfolk Southern. To clarify the proper parties to this action, Norfolk Southern is working on a proposed stipulation to substitute Norfolk Southern for NSC which will be circulated to counsel. As such, this memorandum is submitted only on behalf of Norfolk Southern. NSC and Norfolk Southern reserves all defenses and arguments including, but not limited to, the insufficiency of service of process, lack of jurisdiction, and federal preemption.

## **II. Brief History**

Norfolk Southern contends that electromagnetic induction from PECO Energy Company's ("PECO") transmission lines is causing the crossing gates and signals to activate at Main and Arch Streets in Royersford (the "Crossing") when trains are not present (the "False Activations"). Norfolk Southern owns and operates an interstate railroad through Royersford over its property (the "Right of Way"). The Right of Way is part of old Reading Line and is Norfolk Southern's main line between Philadelphia and Harrisburg. Approximately 12 trains traverse through Royersford each day.

In the 1980s, PECO obtained an easement through the Right of Way to install and maintain transmission lines for a 230kV circuit connecting the Limerick Nuclear Power Plant to the surrounding communities. Under the easement, PECO is responsible for maintaining the transmission lines and remedying any electrical inference caused by the transmission lines. PECO is also obligated to pay all costs and expenses relating to the transmission lines including those costs incurred by Norfolk Southern.

After False Activations began to occur, Norfolk Southern engaged National Signal Technology ("NST") as an outside consultant to evaluate the cause and remedy—a report from July 14, 2023, from NST was provided to PECO and the Borough articulating the inductive interference caused by PECO's transmission lines. Subsequently, PECO retained an outside consultant (Power Engineers) who did not dispute that the False Activations were caused by PECO's transmission lines. Instead, PECO claimed additional studies are necessary.

On July 28, 2025, the Borough filed an emergency petition seeking to force PECO and Norfolk Southern to resolve the issues causing the False Activations and, in the interim, essentially cease railroad operations through Royersford. Norfolk Southern contests the allegations raised by

the Borough both factually and legally. As a temporary measure to try and limit the frequency of False Activations, Norfolk Southern modified the circuit for the Crossings. This is not a permanent solution, requires Norfolk Southern trains to proceed at half the speed permitted by federal law, and is placing an unreasonable burden on Norfolk Southern. But there have been no reported False Activations since June 28, 2025.<sup>2</sup>

The Bureau of Technical Utility Services, Rail Safety (“TUS”), held a meeting at the Crossings on August 14, 2025, attended by 20 people including representatives from Norfolk Southern, PECO, the Borough, and various other state and local officials. Norfolk Southern reiterated its commitment to finding a permanent solution to the issues caused by PECO’s electrical interference. PECO has advised that it retained Advanced Grounding Concepts “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 [PECO] can take to mitigate impacts to NS’ equipment” (the “PECO Study”). (Letter from PECO dated July 31, 2025). PECO estimates that the study will be completed by October 15, 2025, after which PECO will be better able to assess what measures it will take to address any electronic interference causing the False Activations.

In the interim, Norfolk Southern is working internally to establish and report to TUS and other parties about a communications and response protocol to be followed if any False Activation occur prior to effective next steps being determined that will provide the Borough and its fire and police services with better estimates for Norfolk Southern’s response (the “Response Protocol”). Norfolk Southern will also be working with PECO to assess the feasibility of designing and implementing a traffic control plan at the Crossings to guide motorists to detours if a False

---

<sup>2</sup> There may have been one or two unreported occurrences of False Activations that resolved themselves without Norfolk Southern being contacted.

Activation occurs (the “TCP”). Norfolk Southern will be reporting back to the TUS regarding the Response Protocol by August 24, 2025, and TUS proposed a follow-up meeting in two weeks to discuss the status of the TCP.

Norfolk Southern remains committed to cooperating with TUS and all parties to find interim and permanent solutions to the False Activations.

**III. Issues**

- a. Whether the claims and relief sought by the Borough are preempted by federal law.
- b. Whether PECO is responsible for causing the False Activations of the signals and gates alleged by the Borough.
- c. Whether Norfolk Southern has complied with the applicable regulations regarding the installation and maintenance of the signals and gates at the Crossings.
- d. What is the most effective long-term resolution to resolve the False Activations of the signals?

**IV. Proposed Plan and Schedule for Discovery**

PECO has determined that it is necessary to conduct the study to develop a long term remedy to the False Activations. Norfolk Southern is committed to promptly reviewing the results of the PECO study, however, it is essential that Norfolk Southern be provided sufficient time to so and to conduct discovery regarding the basis for the PECO Study’s conclusions and proposed remedial measures. Because the parties are cooperating with each other and TUS, Norfolk Southern proposes that litigation be put on hold until the PECO Study has been completed. After which, the parties will be better able to determine a procedural schedule for addressing any remaining issues with the Borough’s petition.

**V. Possibility of Settlement**

The parties are actively discussing further possible interim remedial measures that can be implemented while PECO completes its study and the remediation is implemented. Norfolk Southern also has engaged with PECO regarding the allocation of the costs for the interim and permanent remediation—that matter is ultimately governed by the contractual terms of the easement permitting PECO’s transmission lines to be located on the Right of Way and is not a matter for the PUC to determine.

**VI. Witnesses**

Norfolk Southern reserves the right to amend and/or supplement this list and present additional witnesses as it deems necessary based on the issues presented by the parties, but for the purposes of this memorandum identifies the following witnesses:

- a. Representative(s) from Norfolk Southern’s Communications and Signals Department
  - i. *Expected Testimony*: Signals design at the Crossings, maintenance and compliance of the signals and gates in accordance with federal laws and regulations, and issues caused by interference at the Crossing and/or Right of Way.
- b. Representative(s) from Norfolk Southern’s Transportation Department
  - i. *Expected Testimony*: Burden on Norfolk Southern caused by the interim remedies and/or relief sought by the Borough.
- c. Representative(s) from outside consultants retained by Norfolk Southern
  - i. *Expected Testimony*: The source of the False Activations, the sciences and data relating to inductive interference at the Crossings and/or Right of Way, and the remediation of the False Activations and/or electrical interference.

Respectfully Submitted,

**COHEN & FREY P.C.**

Date: August 15, 2025

By: /s/ Jeffrey D. Cohen  
Jeffrey D. Cohen (Pa. Bar No. 77798)  
Timothy L. Frey (Pa. Bar No. 311661)  
The Times Building  
32 Parking Plaza, Suite 402  
Ardmore, PA 19003  
Telephone: 215-609-1110  
Facsimile: 215-609-1117  
Email: jcohen@freightlaw.net  
tfrey@freightlaw.net

**COHEN SEGLIAS PALLAS**

**GREENHALL & FURMAN PC**

Benjamin C. Dunlap, Jr. (Pa. Bar No. 66283)  
240 North 3rd Street, 7th Floor  
Harrisburg, PA 17101  
Telephone: 717-480-5303  
Email: bdunlap@cohenseglias.com