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September 2, 2025

Via Electronic Filing

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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

Dear Secretary Homsher,

I represent respondent, Norfolk Southern Railway Company (“Norfolk Southern”), in the above referenced matter. I have attached Norfolk Southern’s Answer to the Petition of the Borough of Royersford, Pennsylvania for Emergency Order for filing. I have served a copy of the filing in accordance with the attached Certificate of Service.

Respectfully,

COHEN & FREY P.C.

By: /s/ Jeffrey D. Cohen
Jeffrey D. Cohen

/JDC

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

Docket No. P-2025-3056530

Electronically Filed

**NORFOLK SOUTHERN RAILWAY COMPANY’S ANSWER TO THE PETITION OF THE BOROUGH OF
ROYERSFORD, PENNSYLVANIA FOR EMERGENCY ORDER**

Norfolk Southern Railway Company (“Norfolk Southern”) submits its Answer responding to the allegations in the Borough of Royersford’s (“Petitioner”) petition seeking an emergency order (“Petition”).

I. INTRODUCTION

The Petition identifies the wrong entity; Norfolk Southern Corporation is a holding company and is not a public utility subject to the Commission’s jurisdiction. 66 Pa. C.S. § 102; *Springdale Twp. v. Allegheny Cnty. Bd. of Prop. Assessment, Appeals & Rev.*, 467 A.2d 74, 78 (Pa. Commw. Ct. 1983) (PUC’s power extends only to utilities as defined by the Public Utility Code). Accordingly, the Commission should deny the Petition as to Norfolk Southern Corporation.¹

FEDERAL PREEMPTION

Norfolk Southern Railway Company owns and operates the identified rail line, *i.e.*, the Keystone Division, at issue in this Petition. Norfolk Southern is an interstate rail carrier subject to the jurisdiction of the U.S. Surface Transportation Board and governed by the Interstate Commerce Act, 49 U.S.C. § 10101 *et seq.* As such, federal law—the Interstate Commerce Commission Termination Act, 49 U.S.C. § 10501(b) (“ICCTA”) and Federal Railroad Safety Act, 49 U.S.C. § 20101 (“FRSA”)—governs and regulates Norfolk Southern and would effectively preempt the

¹ The *ex parte* Emergency Order issued on August 1, 2025, acknowledged that Norfolk Southern Corporation is not a proper party. Instead, the appropriate party is Norfolk Southern Railway Company, which owns and operates the railway that traverses through the Borough.

relief that the Petitioner seeks from the Commission, specifically that the subject crossings “be closed to rail traffic pending full resolution” or alternatively that Norfolk Southern be ordered to “stop and protect” trains with a safety check, make available an emergency response team in the event of a false activation, and implement a traffic control plan. *Richmond Waterfront Indus. Park, LLC v. Philadelphia Belt Line R.R. Co.*, 313 A.3d 259, 263 (Pa. Super. 2024) (explaining that ICCTA preemption encompasses all rail transportation); *Krentz v. Consol. Rail Corp.*, 910 A.2d 20, 32 (2006) (addressing FRSA and preemption). Norfolk Southern has submitted preliminary objections requesting that the Commission dismiss Petitioner’s relief.²

**PECO ENERGY COMPANY’S (“PECO”) BREACH OF CONTRACT AND
EFFORTS TO COMPEL PECO TO ADDRESS INDUCTION INTERFERENCE**

The issue highlighted by the Petition is a matter that Norfolk Southern has taken very seriously. As the Petition recognizes, Norfolk Southern engaged an outside consultant to evaluate the cause of the signals activating at the crossings in Royersford. The cause was determined to be electrical interference caused by induction from PECO’s transmission lines. Norfolk Southern provided PECO with its analysis. And PECO’s own consultants did not dispute that the gates activated at the crossings in Royersford because of PECO’s electrical interference. Instead of correcting the issue, however, PECO claimed more studies are required but has taken no affirmative steps, prior to the filing of the Petition, to conduct those studies or remedy its interference with the rail equipment despite being expressly required to remedy inductive interference caused by the transmission lines in the underlying easement allowing for the transmission lines on the railroad’s property.

² It is to be noted that Norfolk Southern is working with the Commission’s Bureau of Technical Utility Services and the other parties on less onerous measures that do not interfere with interstate commerce to address any further incidents of false activations until a more permanent resolution can be implemented.

Norfolk Southern retained the undersigned counsel to engage with PECO to incite action from PECO to address this issue and if necessary to pursue legal action against PECO. The Petitioner, however, filed this action before Norfolk Southern could engage with PECO to enforce the terms of the easement. Norfolk Southern is committed to pursuing PECO to remediate the effects its transmission lines are having on Norfolk Southern's rail system—as the induction is not isolated to or potentially even occurring within the crossings themselves. However, this is a dispute between Norfolk Southern and PECO pursuant to the established terms of contract between those parties.

PECO must mitigate the effect its transmission lines are having on Norfolk Southern's property and equipment and Norfolk Southern stands ready to cooperate with PECO to facilitate resolution. Norfolk Southern's consultant explained that the remediation will, at a minimum, require mapping the electromagnetic field, designing the remediation (i.e a counterpoise), and constructing/implementing the remedy. Even if PECO promptly accepts its responsibility and prolonged litigation is avoided, it could take months before the issue is resolved. Shutting down an interstate railroad (which would violate federal law, *see* above and Norfolk Southern's preliminary objections) or turning off power to hundreds or thousands of PECO's customers are not viable options. And the Borough's requested form of emergency relief is not the proper method of addressing the legitimate concerns that Norfolk Southern shares with the Borough.

Temporary measures have been taken by Norfolk Southern, including shortening track circuits to mitigate the electrical interference caused by induction from PECO's transmission lines. This has greatly reduced false activations of the crossing gates. This has required trains to travel at ½ their permissible speed and is negatively impacting rail operations. This measure is temporary and not sustainable and a long-term solution, likely involving the installation of a counterpoise by

PECO will be required for a long term solution. PECO has initiated a study to determine the best long-term solution and Norfolk Southern has also engaged a consultant to consider the findings of the PECO consultant and develop the best long-term solution.

II. ANSWERS TO THE AVERMENTS IN THE NUMBERED PARAGRAPHS IN THE PETITION

1. Admitted.

2. Admitted.

3. Denied any/all allegations that reference Norfolk Southern Corporation. Norfolk Southern admits only that it owns and operates the identified rail line and that the Petition identifies two crossings within the Borough of Royersford; first, an at grade highway crossing located on Main Street, crossing number 588602S; and second, an at grade highway crossing located on Arch Street, crossing number 588601K (collectively referred to as the “Crossings”). Norfolk Southern denies that the Crossings are defective and the remaining allegations that it has not specifically admitted.

4. Denied any/all allegations that reference Norfolk Southern Corporation. Norfolk Southern admits only that it operates trains on the identified line, which does pass through Royersford, Pennsylvania. Norfolk Southern also admits that its trains traverse the identified line. Norfolk Southern denies the remaining allegations that it has not specifically admitted.

5. Denied any/all allegations that reference Norfolk Southern Corporation. Norfolk Southern does admit that PECO Energy Company (“PECO”) owns an easement over, across, and along certain property belonging to Norfolk Southern for the purpose of constructing a transmission line. Norfolk Southern denies the remaining allegations that it has not specifically admitted.

6. Denied as stated. The image presented in paragraph 6 speaks for itself.

7. Denied as stated. The image presented in paragraph 7 speaks for itself.

8. Denied as stated. The image presented in paragraph 8 speaks for itself.

9. Denied as stated. The image presented in paragraph 9 speaks for itself.

10. Denied as stated. Norfolk Southern admits that it is aware that false activations have occurred at the Crossings, as defined in 49 C.F.R. § 234.5. After a reasonable investigation, Norfolk Southern lacks sufficient knowledge regarding the remaining allegations to admit or deny the averments set forth in this paragraph, and thus, denies them and demands proof.

11. Denied as to any/all allegations that reference Norfolk Southern Corporation. Norfolk Southern admits only that it engaged National Signal Technology and that Exhibit A is a copy of the report that National Signal Technology prepared. Norfolk Southern denies the remaining allegations that it has not specifically admitted.

12. Denied as stated. The National Signal Technology report speaks for itself.

13. Denied as to any/all allegations that reference Norfolk Southern Corporation. Norfolk Southern admits only that after the National Signal Technology report, Norfolk Southern and PECO continued to investigate the occurrence of “false activations” at the Crossings. After a reasonable investigation, Norfolk Southern lacks sufficient knowledge regarding the remaining allegations to admit or deny the averments set forth in this paragraph, and thus, denies them and demands proof.

14. After a reasonable investigation, Norfolk Southern lacks sufficient knowledge regarding the allegations to admit or deny the averments set forth in this paragraph, and thus, denies them and demands proof.

15. After a reasonable investigation, Norfolk Southern lacks sufficient knowledge regarding the allegations to admit or deny the averments set forth in this paragraph, and thus, denies them and demands proof.

16. After a reasonable investigation, Norfolk Southern lacks sufficient knowledge regarding the allegations to admit or deny the averments set forth in this paragraph, and thus, denies them and demands proof.

17. After a reasonable investigation, Norfolk Southern lacks sufficient knowledge regarding the allegations to admit or deny the averments set forth in this paragraph, and thus, denies them and demands proof.

18. Denied as to any/all allegations that reference Norfolk Southern Corporation. Norfolk Southern admits only that it met with Borough officials regarding “false activations” at the Crossings and identified PECO’s transmission line as the potential cause of the “false activations.” Norfolk Southern denies the remaining allegations that it has not specifically admitted.

19. Denied as to any/all allegations that reference Norfolk Southern Corporation. Norfolk Southern admits the allegation.

20. Admitted in part, denied as stated in part. The document attached to the Petition as Exhibit D is not an exact copy of the presentation given by PECO at the June 17, 2025 meeting as it contains handwritten notes that were not a part of that presentation. The remaining averments in this Paragraph 20 are admitted.

21. After a reasonable investigation, Norfolk Southern lacks sufficient knowledge regarding the allegations to admit or deny the averments set forth in this paragraph, and thus, denies them and demands proof.

22. Denied as stated. The Petition speaks for itself.

23. This averment asserts a legal conclusion regarding 52 Pa. Code § 3.3, which speaks for itself. If an answer is required, Norfolk Southern denies the averment.

24. This averment asserts a legal conclusion regarding the standard to support a petition seeking emergency relief. If an answer is required, Norfolk Southern denies the averment.

25. This averment asserts a legal conclusion regarding the definition of an emergency. If an answer is required, Norfolk Southern denies the averment.

26. This averment asserts a legal conclusion regarding 66 Pa.C.S. § 2702(f), which speaks for itself. If an answer is required, Norfolk Southern denies the averment.

27. This averment asserts a legal conclusion regarding 52 Pa. Code § 3.361(a), which speaks for itself. If an answer is required, Norfolk Southern denies the averment.

28. This averment asserts a legal conclusion regarding the Commissions' authority. If an answer is required, Norfolk Southern denies the averment.

29. Denied as stated. The Petition speaks for itself.

30. This averment asserts a legal conclusion regarding whether the Petition alleges an "emergency." If an answer is required, Norfolk Southern denies the averment.

31. This averment asserts a legal conclusion regarding the Borough's Petition and its right to relief. If an answer is required, Norfolk Southern denies the averment.

32. This averment asserts a legal conclusion regarding whether the Borough's Petition has satisfied the burden of proof. If an answer is required, Norfolk Southern denies the averment.

33. This averment asserts a legal conclusion regarding 52 Pa. Code § 33.21(b), which speaks for itself. If an answer is required, Norfolk Southern denies the averment.

34. This averment asserts a legal conclusion regarding 66 Pa.C.S. § 2702, which speaks for itself. If an answer is required, Norfolk Southern denies the averment.

35. After a reasonable investigation, Norfolk Southern lacks sufficient knowledge regarding the allegations regarding the Borough's satisfaction or interests to admit or deny the

averments set forth in this paragraph and thus, demands proof. Norfolk Southern also denies that the Crossings themselves are defective and the remaining averments.

36. It is denied that the circumstances described by the Borough constitute an emergency. The remaining averments assert legal conclusions regarding the Commission's power and authority. If an answer is required, Norfolk Southern denies the averment.

37. This averment is a request for relief and asserts legal conclusions regarding why the Commission should issue an emergency order. If an answer is required, Norfolk Southern denies the averment.

38. This averment asserts a legal conclusion regarding "the likelihood of irreparable injury." If an answer is required, Norfolk Southern denies the averment. Norfolk Southern denies that any "false activations" occurring at the Crossings "cause multiple problems." After a reasonable investigation, Norfolk Southern lacks sufficient knowledge regarding the remaining allegations to admit or deny the averments and thus, denies them and demands proof.

39. Denied as to any/all allegations that reference Norfolk Southern Corporation. After a reasonable investigation, Norfolk Southern lacks sufficient knowledge regarding the allegations to admit or deny the averments and thus, denies them and demands proof.

40. This averment asserts a legal conclusion regarding "the likelihood of irreparable injury." If an answer is required, Norfolk Southern denies the averment. After a reasonable investigation, Norfolk Southern lacks sufficient knowledge regarding the remaining allegations to admit or deny the averments and thus, denies them and demands proof.

41. This averment asserts a legal conclusion regarding the "Commission's function." If an answer is required, Norfolk Southern denies the averment.

42. This averment asserts a legal conclusion regarding the "public interest." If an

answer is required, Norfolk Southern denies the averment.

III. WHEREFORE

For the foregoing reasons, including Norfolk Southern's arguments raised in its preliminary objections, the Commission should deny the Borough's Petition.

Respectfully Submitted,

COHEN & FREY P.C.

Date: September 2, 2025

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*Attorneys for Norfolk Southern Railway
Company*

**BEFORE THE
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Preliminary Objections upon the party listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

Via Electronic Mail

The Honorable Christopher P. Pell Deputy
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Counsel for PECO Energy Company

Dated this 2nd day of September, 2025

/s/ Jeffrey D. Cohen
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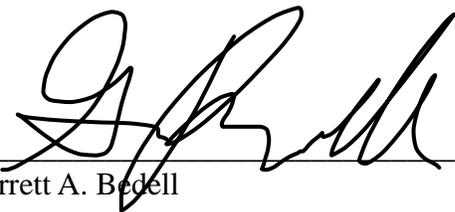
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VERIFICATION

I, Garrett A. Bedell an authorized employee of Norfolk Southern Railway Company, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect Norfolk Southern Railway Company to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904.

Date: September 2, 2025



Garrett A. Bedell