



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

October 10, 2025

**Via Electronic Filing**

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

Re: Application of Department of Transportation of the Commonwealth of Pennsylvania for approval to alter two (2) public crossings by the rehabilitation of the existing bridge where State Route 0018 (Seventh Avenue) crosses, above grade, one (1) track of Norfolk Southern Railway Company (DOT 503 768 L) located in New Brighton Borough and two (2) tracks of CSX Transportation, Inc. (DOT 584 878 T) located in the City of Beaver Falls, all in Beaver County, and the allocation of costs incident thereto.  
Docket No. A-2024-3045709

Application of the Department of Transportation of the Commonwealth of Pennsylvania for approval to alter the public above grade crossing by the replacement of the existing bridge carrying State Route 0011 (West King Street) over track of Norfolk Southern Railway Company (DOT 592 122 M) in Shippensburg Borough and Southampton Township, Franklin County, and all the allocation of costs incident thereto.  
Docket No. A-2022-3031613

Application of the Department of Transportation of the Commonwealth of Pennsylvania for approval to replace the existing bridge where West Lackawanna Avenue crosses above the track(s) of Norfolk Southern Railway corporation, DOT Number 265 971 V in the City of Scranton, Lackawanna County and the allocation of costs incident thereto.  
Docket No. A-2023-3043493

Application of the Pennsylvania Department of Transportation for approval to alter the public crossing (DOT# 592 188 M) by the removal and replacement of the existing bridge where Seventeenth Street crosses, above grade, the tracks of Norfolk Southern Railway Company in the City of Harrisburg, Dauphin County, and the allocation of costs incident thereto.  
Docket No. A-2024-3051983

Matthew L. Homsher, Secretary

October 10, 2025

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Application of Westmoreland County for Approval to Replace an Above Grade Crossing By the Installation of a Single-Span Girder Bridge Where West Broadway Avenue/Fourth Street Crosses Norfolk Southern Railroad (NSRC) BR0028787- PT-331.87; U.S. Department Federal Highway Administration (FHWA) Will Fund the Bridge Replacement, But Westmoreland County Will own and Maintain the Bridge Located in the Borough of North Irwin, Westmoreland County, Pennsylvania.  
Docket No. A-2024-3052077

Application of Montgomery County for approval to reconstruct overhead crossing for Norfolk Southern Dale Secondary line at Ridge Pike, Section MG4 (Montgomery County Bridge No. 0), Plymouth Township, Montgomery County  
Docket No. A-2024-3050051

**I&E's Objection to PennDOT's Motion for Approval of Temporary Settlement**

Dear Secretary Homsher:

Enclosed for electronic filing is the **Objection to the Motion of PennDOT for Approval of Temporary Settlement** of the Public Utility Commission's Bureau of Investigation and Enforcement in the above referenced proceeding.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please do not hesitate to contact me.

Sincerely,



Grant Rosul  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 318204  
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GR/nb

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Allison C. Kaster, Director, I&E (via email – [akaster@pa.gov](mailto:akaster@pa.gov))  
Carrie B. Wright, Deputy Chief Prosecutor, I&E (via email – [carwright@pa.gov](mailto:carwright@pa.gov))

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Department of Transportation :  
of the Commonwealth of Pennsylvania for :  
approval to alter two (2) public crossings by :  
the rehabilitation of the existing bridge where :  
State Route 0018 (Seventh Avenue) crosses, :  
above grade, one (1) track of Norfolk :  
Southern Railway Company (DOT 503 768 L) :  
located in New Brighton Borough and two (2) :  
tracks of CSX Transportation, Inc. (DOT 584 :  
878 T) located in the City of Beaver Falls, all :  
in Beaver County, and the allocation of costs :  
incident thereto. :

Docket No. A-2024-3045709

Application of the Department of :  
Transportation of the Commonwealth of :  
Pennsylvania for approval to alter the public :  
above grade crossing by the replacement of the :  
existing bridge carrying State Route 0011 :  
(West King Street) over track of Norfolk :  
Southern Railway Company (DOT 592 122 M) :  
in Shippensburg Borough and Southampton :  
Township, Franklin County, and all the :  
allocation of costs incident thereto. :

Docket No. A-2022-3031613

Application of the Department of :  
Transportation of the Commonwealth of :  
Pennsylvania for approval to replace the :  
existing bridge where West Lackawanna :  
Avenue crosses above the track(s) of Norfolk :  
Southern Railway corporation, DOT Number :  
265 971 V in the City of Scranton, :  
Lackawanna County and the allocation of :  
costs incident thereto. :

Docket No. A-2023-3043493

Application of the Pennsylvania Department :  
of Transportation for approval to alter the :  
public crossing (DOT# 592 188 M) by the :  
removal and replacement of the existing :  
bridge where Seventeenth Street crosses, :  
above grade, the tracks of Norfolk Southern :  
Railway Company in the City of Harrisburg, :  
Dauphin County, and the allocation of costs :  
incident thereto. :

Docket No. A-2024-3051983

Application of Westmoreland County for :  
Approval to Replace an Above Grade :  
Crossing By the Installation of a Single-Span :  
Girder Bridge Where West Broadway :  
Avenue/Fourth Street Crosses Norfolk :  
Southern Railroad (NSRC) BR0028787- PT- : Docket No. A-2024-3052077  
331.87; U.S. Department Federal Highway :  
Administration (FHWA) Will Fund the :  
Bridge Replacement, But Westmoreland :  
County Will own and Maintain the Bridge :  
Located in the Borough of North Irwin, :  
Westmoreland County, Pennsylvania. :

Application of Montgomery County for :  
approval to reconstruct overhead crossing for :  
Norfolk Southern Dale Secondary line at : Docket No. A-2024-3050051  
Ridge Pike, Section MG4 (Montgomery :  
County Bridge No. 0), Plymouth Township; :  
Montgomery County :

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**THE BUREAU OF INVESTIGATION AND ENFORCEMENT'S  
OBJECTION TO THE MOTION OF PENNDOT FOR APPROVAL OF TEMPORARY  
SETTLEMENT**

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Grant Rosul  
Prosecutor  
PA Attorney ID No. 318204

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Dated: October 10, 2025

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## **I. INTRODUCTION**

On July 16, 2025, the Pennsylvania Department of Transportation (“PennDOT”) submitted a Letter to the Presiding Officer in these consolidated matters requesting permission for PennDOT to continue its construction during the pendency of this litigation.

On July 30, 2025, a conference call between the Bureau of Investigation and Enforcement (“I&E”), PennDOT, and Norfolk Southern was held wherein PennDOT was directed by the Presiding Officer, ALJ F. Joseph Brady, to put its Letter in the form of a Motion to request the specific relief it sought from the Court.

On September 22, 2025, PennDOT filed its Motion for Approval of Temporary Settlement (“Motion”).

Pursuant to Commission regulation at 5.103(c), I&E now files this response objecting to the Motion in part. Specifically, I&E objects to the “temporary settlement” language put forth by PennDOT to replace the existing secretarial letters. I&E does not object to the request to consolidate the matter docketed at A-2024-3050051.

## **II. ARGUMENT**

In its Motion, PennDOT requests that the Presiding Officer in this matter approve what it calls a “temporary settlement” to be effective during the pendency of this litigation. PennDOT proposes temporary settlement language that would obligate PennDOT to require its contractors to furnish and maintain railroad flaggers from a list of vendors approved by Norfolk Southern.

Although PennDOT correctly notes that I&E opposes this temporary settlement language, I&E separately files this Objection to PennDOT’s motion to emphasize its opposition. It is the position of I&E that the case should be decided on the basis of the testimony already taken and briefs already filed in this matter.

The Commission has “exclusive power to determine and prescribe, by regulation or order, the manner in which highway-rail crossings may be constructed, altered, relocated,

suspended or abolished, and the manner and conditions in or under which such crossings shall be maintained, operated and protected to effectuate the prevention of accidents and the promotion of public safety.” *Pittsburgh & Lake Erie R. Co. v. Pa. PUC*, 445 A.2d 851, 853 (Pa. Cmwlth. 1982); *see also* 66 Pa. C.S. § 2702(b). Thus, it is the Commission, through the issuance of a Secretarial Letter, which determines the manner in which rail-highway crossings are altered. Third parties may not contract around it.

PennDOT’s Motion is functionally a Petition for Reconsideration from Staff Action. Such Petitions must be sought within 20 days after service of the action. That was not done so here. Further, the Motion appears to contradict its own position in this litigation, which is to oppose the Petition for Relief from Staff Action that had been filed by Norfolk Southern seeking to have applicants who wish to alter rail-highway crossings furnish and maintain railroad flaggers themselves. Therefore, it should be denied.

### **III. CONCLUSION**

For the reasons set forth above, I&E respectfully requests that the Commission deny the Motion of PennDOT as it relates to the “temporary settlement” language. I&E does not object to the consolidation of the matter docketed at A-2024-3050051 with the captioned cases.

Respectfully submitted,



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Harrisburg, Pennsylvania 17120

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Application of Westmoreland County for :  
Approval to Replace an Above Grade :  
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Located in the Borough of North Irwin, :  
Westmoreland County, Pennsylvania. :

Application of Montgomery County for :  
approval to reconstruct overhead crossing for :  
Norfolk Southern Dale Secondary line at : Docket No. A-2024-3050051  
Ridge Pike, Section MG4 (Montgomery :  
County Bridge No. 0), Plymouth Township, :  
Montgomery County :

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing **Objection to the Motion of PennDOT for Approval of Temporary Settlement** dated October 10, 2025, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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