



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

November 24, 2025

Matthew L. Homsher, Esquire, Secretary
Pennsylvania Public Utility Commission
400 North Street 2nd FL
Harrisburg, PA 17120

RE: A-2022-3031613, A-2024-3045709, A-2023-3043493, A-2024-3051983, and A-2024-3052077

Dear Secretary Homsher,

Enclosed for electronic filing please find the Department of Transportation's *Motion to Expedite Final Decision* in the above-captioned matters.

I hereby certify that a copy has been sent to all parties of record as indicated by the Certificate of Service.

Sincerely,

A handwritten signature in black ink, appearing to read "LJB", with a long horizontal flourish extending to the right.

Leah Jo Bobula
Assistant Counsel

Application of Westmoreland County for approval : **A-2024-3052077**
to replace an above grade crossing by the :
Installation of a single-span girder bridge where :
West Broadway Avenue/Fourth Street crosses :
Norfolk Sothern 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. :

THE COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION MOTION TO EXPEDITE FINAL DECISION

AND NOW comes the Commonwealth of Pennsylvania, Department of Transportation (PennDOT or the Department), by its counsel, Leah Jo Bobula, and offers this Motion to Expedite Final Decision pursuant to 52 Pa. Code § 5103 and 52 Pa. Code § 1.54(b)(3)(ii)(A)(VI).

1. A motion may be made in writing at any time, setting forth the grounds and relief sought. 52 Pa. Code § 5103(a)–(b).
2. The parties are on notice that a responsive pleading shall be filed within 20 days of the date of service of this motion. 52 Pa. Code § 5103(b).
3. This Motion serves as notice that the Department is seeking expedited relief. 52 Pa. Code § 1.54(b)(3)(ii)(A)(VI).
4. These matters were initiated by Norfolk Southern’s petitions for reconsideration after it had agreed to the parameters of the projects and Secretarial Letters had been issued for each of the above-captioned dockets.
5. Norfolk Southern’s sole objection is to the language in the Secretarial Letters requiring it to furnish and maintain flaggers.

6. A hearing was held on May 7, 2025, the record closed on November 10, 2025¹, and Administrative law Judge (ALJ) Brady issued a Recommended Decision on October 20, 2025.
7. None of the construction projects under these dockets can move forward until final resolution of the petitions for reconsideration.
8. On September 25, 2025, the Department filed a Motion for Temporary Settlement to continue construction while litigation continues. I&E was not opposed to construction continuing but was not in agreement with the proposed temporary flagging language. On October 22, 2025, ALJ Brady denied the Department's Motion.
9. By way of background information, the Department schedules let dates for each project. A let date is the date when the project is opened for bids and subsequently awarded to a contractor. Once a project is let and awarded, the awarded contractor begins to obtain insurance, flagging, and other necessary permissions and documentations needed to complete the project. Approximately one to two months after the let date, the notice to proceed is given to the awarded contractor. The notice to proceed gives the contractor the ability to begin with construction, order construction materials, engineer/prepare shop drawings, coordinate with relative entities, among other things. Because construction materials often have lengthy lead times once ordered, delays can significantly increase costs. Prices typically rise over time, which ultimately results in higher expenses for the Department and its taxpayers.
10. Docket A-2024-3052077 is a local project that PennDOT is overseeing. Since the original bridge closed in 2014, the town has had substandard access.

¹ Both the Department and I&E's Reply to Norfolk Southern's Exception were filed *nunc pro tunc* on November 10, 2025.

11. The let date for docket A-2024-3052077 has been modified to May 21, 2026. If this let date is not met, then the project loses federal funding. If federal funding is lost, then this project will not proceed.
12. Docket A-2023-3043493 is also a local project that PennDOT is overseeing. This West Lackawanna bridge is scheduled to be replaced. The current bridge has several Priority 1 Maintenance items on the structure that are growing concerns moving forward. Maintenance concerns are identified during routine bridge inspections and assigned a priority based on severity and implications if not corrected. The scale ranges from 0 to 5, with 0 being the most severe and requiring immediate correction. Priority 0 Maintenance items are deficiencies that could directly or indirectly cause partial or total structure collapse resulting from component instability and/or localized element failure. Priority 1 Maintenance items indicate that the deterioration or defects to a component on the bridge are presently in a condition that if any additional deterioration were to occur, then the bridge would need to close. *See* PennDOT Publication 238, 2.13–2.14. Because there are Priority 1 Maintenance items present, the bridge is inspected at an increased frequency. Because of the increase in inspections, there is an increase in costs.
13. Docket A-2024-3045709 also has several Priority 1 Maintenance items. These deficiencies do not improve over time. If the concerns worsen, the bridge could become a public safety issue and require closure. This bridge is well-traveled, having close to 5,000 vehicles a day travel over the bridge. If the bridge were to close, then that traffic would be diverted elsewhere, likely causing increased congestion on those other roadways. This increase in congestion could lead to an increase in traffic accidents and would likely have a negative impact to local businesses.

14. Docket A-2022-3031613 had a let date of October 24, 2024 and a notice to proceed date of December 9, 2024. If construction cannot begin by January 1, 2026, then the contractor is likely to sue the Department for delay costs under Section 111 of Publication 408. Those delay damages could amount to approximately \$1.2 million.
15. Further delays due to litigation in these dockets is likely to result in an increase in safety risks, an increase in delay damages and costs, and elongate inconveniences to the traveling public.
16. Based on the above information, the Department respectfully requests the Commission to conduct an expedited final decision in the above-docketed cases.

WHEREFORE, the Department respectfully requests that the Commission grant this Motion to Expedite Final Decision and enter an Order accordingly.

Respectfully Submitted,



Leah Jo Bobula
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Supreme Court ID 332184
Commonwealth of Pennsylvania
Department of Transportation
Office of Chief Counsel
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lbobula@pa.gov

Dated: November 24, 2025

VERIFICATION

I, Sarah Fenton, Central Office Grade Crossing Engineer, Commonwealth of Pennsylvania, Department of Transportation, in the foregoing document, make the following statement subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authority, and do state that as the Grade Crossing Administrator for the Commonwealth of Pennsylvania, Department of Transportation, I am authorized to make this statement on behalf of the Commonwealth of Pennsylvania, Department of Transportation, and that the facts set forth in the foregoing document are true and correct to the best of my information, knowledge, and belief.

DATED: _____ 11/24/25 _____



Sarah Fenton
Central Office Grade Crossing Engineer

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replacement, but Westmoreland County will own :
and maintain the bridge located in the borough of :
North Irwin, Westmoreland County, Pennsylvania. :

CERTIFICATE OF SERVICE

I hereby certify that I have on this day served a true copy of the foregoing document upon the participants listed below, in accordance with the requirements of 52 Pa. Code §1.54, by electronic mail and first-class mail to the addresses stated below:

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Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Leah J. Bobula
Assistant Counsel
Supreme Court I.D. 332184

Dated: November 24, 2025