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January 27, 2010

**Filed Electronically
Confirmed Via Hand Delivery**

James McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

**In re: Application of the Department of Transportation of the Commonwealth of Pennsylvania to replace the existing superstructure of the bridge carrying SR 0316 over the two tracks of the Norfolk Southern Railway Company (DOT #534 628 U) in the Borough of Chambersburg, Franklin County; and the allocation of costs incident thereto.
PUC Docket No. A-2009-2137583**

Dear Secretary McNulty:

Please be advised that this law firm represents Norfolk Southern Railway Company ("Norfolk Southern") in regard to the above-referenced matter. I am writing on behalf of Norfolk Southern to object to the "final Right-of-Way plans" and "Property Description Tracts" for appropriation by the Commission that the Pennsylvania Department of Transportation ("PennDOT") filed with the Commission by letter dated January 4, 2010.

Of particular concern to Norfolk Southern are the following:

1. The existing railroad property lines on the highway right-of-way plans differ from those in Norfolk Southern's records. No attempt has been made to update for proper documentation the areas that PennDOT claims to currently own and for which Norfolk Southern has no record of the state acquiring from Norfolk Southern's predecessors.
2. There is an area on the south side of the railroad (considering the roadway to be north-south) under the existing bridge where PennDOT seeks an easement from Norfolk Southern for property it does not claim to own. This extends the full width of the roadway under the bridge and along the east side of Highway 316. The Commission cannot appropriate property from Norfolk Southern that it does not claim to own.

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3. While there is a plot plan for every property other than that owned by Norfolk Southern, there is none for the appropriations from Norfolk Southern.
4. The plans and property descriptions incorrectly designate the owner of the railroad property. Norfolk Southern has repeatedly advised PennDOT that title to the railroad properties is held by Norfolk Southern Railway Company, not Pennsylvania Lines LLC, and that the plans and property descriptions should be changed as such. Yet the final plans submitted to the Commission still use the incorrect designation.
5. Sheet 4 of 12 contains notes with language regarding aerial easements that is unacceptable to Norfolk Southern. The language used has been repeatedly rejected by Norfolk Southern. Norfolk Southern and PennDOT attorneys are working on language suitable to both parties.
6. The areas parallel to the highway but not within the core 60-foot wide operating right-of-way for Norfolk Southern would be better conveyed as required project right-of-way, acquiring all of Norfolk Southern interest, in lieu of the easements for highway purposes and slope easements as designated.

As noted on several of the specific objections above, Norfolk Southern has expressed its concerns regarding these matters to PennDOT previously, most notably when preliminary plans were submitted to Norfolk Southern for review. Until these matters are corrected, Norfolk Southern objects to the approval of the plans and property descriptions submitted by PennDOT.

Sincerely yours,



Benjamin C. Dunlap, Jr.

BCDjr/jc

cc: All Parties of Record per attached Service List
David A. Fischer, P.E., PUC
Randal S. Noe, Esquire
Thomas Bracey
Thomas O'Dwyer

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of	:	
Transportation of the Commonwealth of	:	
Pennsylvania to replace the existing	:	
superstructure of the bridge carrying SR	:	Docket No. A-2009-2137583
0316 over the two tracks of the Norfolk	:	
Southern Railway Company (DOT #534 628 U)	:	Filed Electronically
in the Borough of Chambersburg, Franklin	:	
County; and the allocation of costs incident	:	
thereto.	:	

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