

**BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO**

IN THE MATTER OF THE JOINT PETITION                     )  
OF NORFOLK SOUTHERN RAILWAY                     )  
COMPANY AND CSX TRANSPORTATION,                     )  
INC., TO CLOSE THE FRANKLIN STREET                     ) Case No. 19-180-RR-UNC  
CROSSINGS (DOT NOS. 481482D AND                     )  
518257V) IN ORANGE TOWNSHIP,                     )  
DELAWARE COUNTY, OHIO

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**MOTION TO INTERVENE AND STATEMENT OF OBJECTIONS OF THE  
DELAWARE COUNTY BOARD OF COMMISSIONERS**

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In accordance with R.C. 4903.221 and Ohio Adm. Code 4901-1-11, the Delaware County Board of Commissioners (the “Board”), by and through counsel, respectfully requests issuance of an order granting intervention in this proceeding. In accordance with R.C. 4907.475, and pursuant to the Commission’s Entry in this matter dated March 26, 2019, the Board also respectfully submits its comments objecting to the pending Joint Petition.

Respectfully submitted,

/s/ Aric I. Hochstettler  
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*Counsel for Delaware County  
Board of Commissioners*

## **MEMORANDUM IN SUPPORT OF INTERVENTION**

R.C. 4903.221 confers a right to intervene to any person who may be “adversely affected” by a Commission proceeding. In considering a request to intervene, the Commission must consider the nature of the intervenor’s interest, the extent that interest is represented by existing parties, the intervenor’s potential contribution to a just and expeditious resolution of the issues, and whether intervention would unduly delay the proceeding. *See* R.C. 4903.221(B)(1-4). *See also* Ohio Admin. Code 4901-1-11.

The County meets all of the criteria for intervention, and R.C. 4907.475 and the Commission’s Entry in the matter dated March 26, 2019, clearly establish the Board’s interest in this matter. Upon learning of this matter and reviewing the docket, however, it appears the Board has neither been listed as an interested party nor provided notice. This Motion is intended merely to formalize the Board’s entrance as a party in this matter. The Board is the duly elected board of county commissioners for Delaware County, a political subdivision of the State of Ohio. The Board, besides having certain responsibilities related to the closing of railroad crossings in unincorporated areas of Delaware County per R.C. 4709.475, is the owner of several of the county highways mentioned in the Joint Petition and is responsible for the construction and maintenance thereof. The Board is also responsible for the provision of emergency medical services (“EMS”) and 9-1-1 emergency communications throughout Delaware County and owns and operates an EMS station directly adjacent to the crossings proposed for closure in the Joint Petition.

The other parties in this matter are not in a position to fully represent the various public interests specific to the Board. The Commission’s decision in this matter will affect the Board’s

ability to maintain adequate traffic flows during construction and maintenance of public infrastructure and the Board's ability to promptly and appropriately respond to emergencies, until such time as additional crossing and grade separation improvements are made in the vicinity of the proposed closure. The Board's participation in this proceeding will contribute to a just resolution of the issues. Finally, intervention by the Board prior to the end of the comment period and before the hearing has been set will not unduly delay the proceeding.

Accordingly, the Board respectfully requests that the Commission grant this Motion to Intervene and that it be made a full party of record.

### **STATEMENT OF OBJECTIONS**

The Board objects to the closure of the Franklin Street crossing, as stated in the Joint Petition, because there is a demonstrable need for the crossing to exist until such time as additional crossing and grade separation improvements are made in the vicinity of the proposed closure. (A copy of Board Resolution No. 19-374 is attached hereto as Exhibit A and, by this reference, incorporated herein.) The closure will severely impact EMS response from the Board's EMS Station 3, which is directly adjacent to the Franklin Street crossing. Franklin Street currently serves as the primary emergency response route to areas west of the railroad during high traffic periods on Lewis Center Road and during the periodic closure for maintenance and repair of the crossing at Lewis Center Road. The resultant increased travel times severely impact the EMS medic unit, the adjacent residents, and the general public, and will continue to do so until such time as additional railroad crossing improvement projects are completed.

The typical timeframe for a closure for maintenance activity has been two (2) weeks for each railroad to reconstruct the pavement at the crossings, which, when added to the existing traffic congestion at Orange Road, Shanahan Road, and US Route 23, makes those roads unreasonable detour routes. The proposed closure will also unreasonably impact pedestrian traffic, which uses the Franklin Street crossing to avoid the busy Lewis Center Road crossing. Until such time as the Home Road Extension Phase 4, which includes a grade separation crossing, is constructed, Franklin Street provides the only safe alternative for pedestrian crossing in the vicinity.

The Board is not opposed to the proposed closure once a safe and effective alternative is available, which will only occur through grade separated crossings at Cheshire Road and Orange Road, in addition to the aforementioned Home Road Extension Phase 4. At that time, it is likely that there will not be a demonstrable need for the Franklin Street crossing and the Board would not object to the closing at that time. The Board is actively pursuing the necessary improvements to the roads that utilize these alternative crossings, and maintaining the Franklin Street crossing is vital to maintaining reasonable traffic flows until the improvements have been completed.

Respectfully submitted,

/s/ Aric I. Hochstettler

Aric I. Hochstettler (0081081)

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*Counsel for Delaware County*

### **CERTIFICATE OF SERVICE**

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties: D. Casey Talbott (Attorney for Norfolk Southern Railway Company); Jill A. Henry (PUCO Rail Division); Heather A. Chilcote (PUCO); and PUCO Docketing Staff. The undersigned attorney hereby certifies that a true and accurate copy of this document shall be served, upon notice of acceptance hereof, via regular U.S. Mail, postage prepaid, upon the following parties:

R. Leland Evans  
250 Civic Center Drive, Suite 280  
Columbus, OH 43215  
*Attorney for CSX Transportation, Inc.*

Delaware County Engineer  
50 Channing Street  
Delaware, OH 43015

Ohio Rail Development Commission  
1980 West Broad Street  
Mail Stop #3140  
Columbus, OH 43223

Orange Township  
1680 East Orange Road  
Lewis Center, OH 43035

/s/ Aric I. Hochstettler

Aric I. Hochstettler (0081081)



# Delaware County Commissioners

Jeff Benton  
Barb Lewis  
Gary Merrell

County Administrator  
Michael Frommer

Deputy Administrator  
Dawn Huston

Clerk to the Commissioners  
Jennifer Walraven

## RESOLUTION NO. 19-374

**IN THE MATTER OF DIRECTING LEGAL COUNSEL TO ENTER AN APPEARANCE AND FILE OBJECTIONS IN THE MATTER OF THE JOINT PETITION OF NORFOLK SOUTHERN RAILWAY COMPANY AND CSX TRANSPORTATION, INC., TO CLOSE THE FRANKLIN STREET CROSSINGS (DOT NOS. 481482D AND 518257V) IN ORANGE TOWNSHIP, DELAWARE COUNTY, OHIO:**

It was moved by Mr. Benton, seconded by Mrs. Lewis to approve the following:

WHEREAS, the Delaware County Engineer has informed the Delaware County Board of Commissioners (the "Board") that Norfolk Southern Railway Company and CSX Transportation, Inc., have filed a joint petition with the Public Utilities Commission of Ohio ("PUCO") to close the Franklin Street crossings in Orange Township, Delaware County, Ohio; and

WHEREAS, PUCO has fixed a deadline of April 24, 2019, for interested parties to file comments in response to the petition; and

WHEREAS, the Board has grave concerns about the impact closing the Franklin Street crossings could have on emergency medical response, maintenance of traffic flow, providing safe crossing for local pedestrian and vehicular traffic, and appropriate detour routes during highway and railroad maintenance;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Delaware County, State of Ohio, hereby directs the Board's Staff Attorney to enter an appearance and file objections in the matter of the Joint Petition of Norfolk Southern Railway Company and CSX Transportation, Inc., to Close the Franklin Street Crossings (DOT Nos. 481482D and 518257V) in Orange Township, Delaware County, Ohio, currently pending before PUCO.

Vote on Motion      Mrs. Lewis      Aye      Mr. Merrell      Absent      Mr. Benton      Aye

I, Sarah Dinovo, Assistant Clerk to the Board of Commissioners hereby certify that the foregoing is a true and correct copy of a resolution of the Board of Commissioners of Delaware County duly adopted April 22, 2019 and appearing upon the official records of the said Board.

Sarah Dinovo  
Assistant Clerk to the Commissioners

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**4/23/2019 12:58:38 PM**

**in**

**Case No(s). 19-0180-RR-UNC**

Summary: Motion to Intervene and Statement of Objections electronically filed by Mr. Aric I Hochstettler on behalf of Delaware County Board of Commissioners