

**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 )

---

**DELAWARE COUNTY BOARD OF COMMISSIONERS' MOTION FOR  
AN EXTENSION OF TIME TO FILE WRITTEN TESTIMONY AND FOR  
CONTINUANCE OF THE EVIDENTIARY HEARING,  
WITH A REQUEST FOR AN EXPEDITED RULING**

---

Now comes the Delaware County Board of Commissioners (the "Board"), by and through counsel, and respectfully moves for an extension of time to file written testimony and for a continuance of the evidentiary hearing, pursuant to Ohio Adm. Code 4901-1-13. The reasons for this Motion were not reasonably foreseen, making it impossible for the Board to submit the Motion with sufficient time to consider prior to the established dates. For this reason, the Board also requests an expedited ruling, in accordance with Ohio Adm. Code 4901-1-12(C). The reasons for this Motion and request for an expedited ruling are more fully set forth in the attached Memorandum in Support.

Respectfully submitted,

/s/ Aric I. Hochstettler  
Aric I. Hochstettler (0081081)  
Staff Attorney  
Delaware County Board of Commissioners  
91 North Sandusky Street  
Delaware, Ohio 43015  
740.833.2118 – *Telephone*  
740.833.2099 – *Facsimile*  
AHochstettler@co.delaware.oh.us

(willing to accept service by e-mail)

*Counsel for Delaware County  
Board of Commissioners*

**MEMORANDUM IN SUPPORT**

This matter is a petition for closure of railroad grade crossings at Franklin Street in Orange Township, Delaware County, Ohio. The Board has fully cooperated in discovery, both formal and informal, in this matter and worked in good faith to support a resolution to this matter as negotiated between the Orange Township Board of Trustees, the petitioners, and the Ohio Rail Development Commission. It was on this basis that the Board supported the previous continuance of the evidentiary hearing in this matter, which was granted by Entry dated February 25, 2021. Subsequent to that entry, the “agreement in principle” referenced in the Entry was formalized in writing by the Ohio Rail Development Commission and by a resolution adopted by the Orange Township Board of Trustees on April 19, 2021. Due to the pending voluntary closure of the grade crossings in question, the Board did not prepare written testimony to submit by the deadline stated in the Entry (May 25, 2021) or prepare evidence for presentation at the hearing scheduled for June 1, 2021. Undersigned counsel for the Board was notified yesterday that the Orange Township Board of Trustees took formal action last Friday, May 21, 2021, to rescind its action approving the voluntary closure.

Prior to the negotiated voluntary closure, and due to the Board having well-founded objections and concerns with the proposed closures, the Board had planned to contest the merits of the petition at the evidentiary hearing. This included submitting pre-filed testimony in advance of the hearing. However, as stated above, that testimony was not prepared due to the negotiated voluntary closure, and the lateness of the notice of Orange Township’s action will now require

additional time to prepare and file the testimony. The short timeframe has made it impractical and unduly burdensome for the Board to adequately prepare the testimony and prepare for the evidentiary hearing. In addition, the Board was not able to submit its Motion further in advance because it was not aware of the Orange Township action until after its regularly-scheduled meeting yesterday morning.

Accordingly, for good cause shown, the Board respectfully requests that the Board convert the June 1, 2021 hearing scheduled for next week to a prehearing conference to discuss a new procedural schedule, including an extended deadline for the submission of written testimony. Given that written testimony is due today (May 25, 2021), the Board requests an expedited ruling on this Motion, as authorized by Ohio Adm. Code 4901-1-12(C). Due to the urgent nature of this filing, the Board cannot certify that no party has opposed the Motion or the request for an expedited ruling.

Respectfully submitted,

/s/ Aric I. Hochstettler

Aric I. Hochstettler (0081081)

Staff Attorney

Delaware County Board of Commissioners

101 North Sandusky Street

Delaware, Ohio 43015

740.833.2118 – *Telephone*

740.833.2099 – *Facsimile*

AHochstettler@co.delaware.oh.us

(willing to accept service by e-mail)

*Counsel for Delaware County*

*Board of Commissioners*

### **CERTIFICATE OF SERVICE**

A copy of the foregoing document was filed electronically with the Commission this 25<sup>th</sup> day of May, 2021. Notice of this filing will be sent by operation of the Commission's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Commission's system.

/s/ Aric I. Hochstettler

Aric I. Hochstettler (0081081)

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

**Commission of Ohio Docketing Information System on**

**5/25/2021 3:30:21 PM**

**in**

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

Summary: Motion for an Extension of Time to File Written Testimony and for Continuance of the Evidentiary Hearing, with a Request for an Expedited Ruling electronically filed by Mr. Aric I Hochstettler on behalf of Delaware County Board of Commissioners