#### BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Petition of Norfolk : Case No. 19-180-RR-UNC

Southern Railway Company and CSX

Transportation, Inc. to Close the Franklin : <u>JOINT REQUEST TO</u>

Street Crossings (DOT Nos. 481482D & CONTINUE EVIDENTIARY

518257V) in Orange Township, Delaware : <u>**HEARING**</u> County.

ty.

:

D. Casey Talbott (0046767) : R. Leland Evans (0006833)

(Counsel of Record) (Counsel of Record)
EASTMAN & SMITH LTD. : Richard Silk (0074111)

One SeaGate, 24<sup>th</sup> Floor DICKIE, MCCAMEY & CHILCOTE, P.C.

P. O. Box 10032 : 250 Civic Center Drive, Suite 280

Toledo, Ohio 43699-0032 Columbus, Ohio 43215
Telephone: (419) 241-6000 : Telephone: (614) 258-6000
Fax: (419) 247-1777 Facsimile: (614) 258-6006

E Mail: databatt@contransmith.com

E-Mail: dctalbott@eastmansmith.com : E-Mail: revans@dmclaw.com rsilk@dmclaw.com

Attorneys for Co-Petitioner :

Norfolk Southern Railway Company
Attorneys for Co-Petitioner
CSX Transportation, Inc.

Aric I. Hochstettler (0081081)

(Counsel of Record) : Christopher D. Betts (0068030)

DELAWARE COUNTY BOARD (Counsel of Record)

DELAWARE COUNTI BOARD (Counsel of Record)

OF COMMISSIONERS : Assistant Prosecuting Attorney
Staff Attorney Delaware County Prosecuting Attorney's

Staff Attorney Delawa 101 North Sandusky Street : Office

Delaware, Ohio 43015 145 North Union Street, 3<sup>rd</sup> Floor

Telephone: (740) 833-2118 : Delaware, Ohio 43015

Facsimile: (740) 833-2690 Telephone: (740) 833-2690

E-Mail: AHochstettler@co.delaware.oh.us : Fax: (740) 833-2689

E-Mail: cbetts@co.delaware.oh.us

Attorneys for Delaware County

Board of Commissioners Attorneys for The Delaware County

Engineer and Orange Township,

Delaware County, Ohio

Counsel for the parties jointly request that the evidentiary hearing in this matter – currently scheduled for 10:00 a.m. on March 2, 2021 – be continued to a mutually-convenient date in mid to late-May of 2021.

A memorandum in support is attached.

# Respectfully submitted,

EASTMAN & SMITH LTD.	DICKIE, MCCAMEY & CHILCOTE, P.C.

/s/ D. Casey Talbott	/s/ R. Leland Evans
D. Casey Talbott (0046767)	R. Leland Evans (0006833)
(Counsel of Record)	(Counsel of Record)
Mark W. Sandretto (0079536)	Richard Silk (0074111)
One SeaGate, 24 <sup>th</sup> Floor	250 Civic Center Drive, Suite 280
P.O. Box 10032	Columbus, Ohio 43215
Toledo, Ohio 43699-0032	Telephone: (614) 258-6000
Telephone: (419) 241-6000	Facsimile: (614) 258-6006
Facsimile: (419) 247-1777	Attorneys for Co-Petitioner
Attorneys for Co-Petitioner	CSX Transportation, Inc.
Norfolk Southern Railway Company	CSA Transportation, Inc.
Nortolk Southern Ranway Company	
DELAWARE COUNTY BOARD OF	DELAWARE COUNTY PROSECUTING
COMMISSIONERS	ATTORNEY'S OFFICE
O SIMMISSI SI VERIS	TITOIN ET S OTTIEL
/s/ Aric J. Hochstettler	/s/ Christopher D. Betts
Aric I. Hochstettler (0081081)	Christopher D. Betts (0068030)
(Counsel of Record)	(Counsel of Record)
Staff Attorney	Assistant Prosecuting Attorney
101 North Sandusky Street	145 North Union Street, 3 <sup>rd</sup> Floor
Delaware, Ohio 43015	Delaware, Ohio 43015
Telephone: (740) 833-2118	Telephone: (740) 833-2690
Facsimile: (740) 833-2099	Facsimile: (740) 833-2689
Attorneys for Delaware County	Attorneys for The Delaware County
Board of Commissioners	Engineer and Orange Township,
	Delaware County, Ohio

# MEMORANDUM IN SUPPORT

Via Entry of November 6, 2020, the Commission scheduled the evidentiary hearing in this matter for March 2, 2021. Counsel have since worked well together, and diligently, in preparation for the hearing, toward discovering and streamlining the issues in dispute.

These efforts culminated in a positive development: After extended discussions, the parties have reached an agreement in principle to resolve this matter – specifically, to close the involved crossings, *voluntarily*. So of course this would obviate the need for evidentiary hearing.

The parties still have to work-through certain of the involved details -e.g., to confirm an appropriate use of related ORDC funding, and to prepare and execute the related paperwork which is relatively complex. To give counsel a reasonable window of time to accomplish this, the parties jointly request that the Commission continue the scheduled evidentiary hearing, for perhaps seventy-five (75) days or thereabouts. The parties' hope/expectation is that this window should be sufficient to enable them to prepare/execute the confirmatory paperwork, and to thereby dismiss this matter from the PUCO's active docket.

For the foregoing reasons, by and through counsel, the parties respectfully request that the evidentiary hearing in this matter be continued, and rescheduled for a mutually-convenient date in or about mid to late-May of 2021, with the hope/expectation that ultimately, the hearing will not be necessary.

### Respectfully submitted,

### EASTMAN & SMITH LTD.

#### DICKIE, MCCAMEY & CHILCOTE, P.C.

EASTMAN & SMITH LID.	DICKIE, MCCAMET & CHIECOTE, I.C.
/s/ D. Casey Talbott	/s/ R. Leland Evans
D. Casey Talbott (0046767)	R. Leland Evans (0006833)
(Counsel of Record)	(Counsel of Record)
Mark W. Sandretto (0079536)	Richard Silk (0074111)
One SeaGate, 24 <sup>th</sup> Floor	250 Civic Center Drive, Suite 280
P.O. Box 10032	Columbus, Ohio 43215
Toledo, Ohio 43699-0032	Telephone: (614) 258-6000
Telephone: (419) 241-6000	Facsimile: (614) 258-6006
Facsimile: (419) 247-1777	Attorneys for Co-Petitioner
Attorneys for Co-Petitioner	CSX Transportation, Inc.
Norfolk Southern Railway Company	_
DELAWARE COUNTY BOARD OF	DELAWARE COUNTY PROSECUTING
COMMISSIONERS	ATTORNEY'S OFFICE
/s/ Aric J. Hochstettler	/s/ Christopher D. Betts

(Counsel of Record)
Staff Attorney
101 North Sandusky Street
Delaware, Ohio 43015
Telephone: (740) 833-2118
Facsimile: (740) 833-2099
Attorneys for Delaware County Board of Commissioners

Aric I. Hochstettler (0081081)

Christopher D. Betts

Christopher D. Betts (0068030)
(Counsel of Record)
Assistant Prosecuting Attorney
145 North Union Street, 3<sup>rd</sup> Floor
Delaware, Ohio 43015
Telephone: (740) 833-2690
Facsimile: (740) 833-2689

Attorneys for The Delaware County
Engineer and Orange Township,
Delaware County, Ohio

# **CERTIFICATE OF SERVICE**

A copy of the foregoing **Joint Request to Continue Evidentiary Hearing** was filed electronically with the Commission this 18<sup>th</sup> day of February, 2021. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/ D. Casey Talbott

Attorney for Co-Petitioner Norfolk Southern Railway Company This foregoing document was electronically filed with the Public Utilities

**Commission of Ohio Docketing Information System on** 

2/18/2021 2:29:05 PM

in

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

Summary: Request Joint Request to Continue Evidentiary Hearing electronically filed by Mr. D. Casey Talbott on behalf of Norfolk Southern Railway Company