

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - PENNSYLVANIA**

### **Norfolk Southern Ry. Co. v. Public Utility Com'n**

**Supreme Court of Pennsylvania - October 2, 2013 - A.3d - 2013 WL 5468263**

Norfolk sought review of an order of the Public Utility Commission (PUC) that allocated to railroad 15% of the cost for the removal of a rail-crossing bridge. Norfolk contended that any allocation to it would be unjust and unreasonable, since the company owned no property or facilities at the crossing site. Norfolk also cited *City of Chester v. PUC*, 798 A.2d 288, for the proposition that the PUC lacked authority to allocate costs to a transportation utility which had no ownership interest associated with a rail-highway crossing.

The Supreme Court of Pennsylvania held that:

- Statutory provision that governed compensation for damages occasioned by the construction, relocation, or abolition of a railroad crossing invested the Public Utility Commission (PUC) with discretion to determine the proper proportions of costs to be allocated to concerned parties or the Commonwealth, but not to select parties who would be subject to the allocation on a discretionary basis, but
- In a matter of first impression, non-owner railroad was a concerned party for purposes of the PUC's cost-allocation jurisdiction and authority, at least to the extent that it conducted regular operations at the crossing and could enforce an easement-based right of way, abrogating *City of Chester v. Public Utility Com'n*, 773 A.2d 1280.