IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

NORFOLK SOUTHERN RAILWAY)	
COMPANY and WHEELING & LAKE ERIE)	
RAILWAY COMPANY,)	Civil Action No. 2:11-cv-01588-GLL
Plaintiffs,)	ELECTRONICALLY FILED
)	
v.)	
)	
PITTSBURGH & WEST VIRGINIA)	
RAILROAD and POWER REIT,)	
)	
Defendants.	.)	

ORDER

AND NOW, this 7 day of February 2013, IT IS HEREBY ORDERED that the motion of Defendants Pittsburgh & West Virginia Railroad and Power REIT to compel Norfolk Southern Railway Company's compliance with the Rule 30(b)(6) deposition notice served on January 4, 2013 is GRANTED.

• The Counterclaims are "based upon a position that is inconsistent with the intentions of the parties at the time they entered the Lease."

- The Counterclaims are "based upon a position that is inconsistent with the course of performance of the parties under the Lease."
- The Counterclaims are "barred by the doctrine of estoppel."
- The Counterclaims are "barred by the doctrine of waiver."
- The Counterclaims are "barred by the doctrine of laches."
- The Counterclaims are "barred by the doctrine of unclean hands."
- Defendants have "failed to mitigate their damages."

Gary L. Lancaster,

Chief United States District Judge