

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held March 10, 2022

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
John F. Coleman, Jr., Vice Chairman
Ralph V. Yanora

Investigation upon the Commission's motion :
into matters pertaining to the proper safety of the :
traveling public traversing the crossing where : I-2016-2527248
Lighthouse Road (DOT 535 148 L) crosses, at :
grade, one track of Norfolk Southern Railway :
Company in Guilford Township, Franklin County :

ORDER

BY THE COMMISSION:

We adopt as our action the Recommended Decision of Administrative Law Judge
Steven K. Haas, dated January 19, 2022;

THEREFORE,

IT IS ORDERED:

1. That the Joint Petition for Settlement in this proceeding be approved and
adopted.

2. That this Order be without prejudice to the right of any party to enforce any
lawful agreement allocating costs among the parties.

3. That the portion of Lighthouse Road from State Route 11 to its intersection with the established Relief Road, shall be vacated as shown on the right-of-way plans and metes and bounds descriptions attached hereto as Exhibit "A" and Exhibit "B," respectively. The Township will not vacate any other portion of Lighthouse Road in conjunction with this proceeding. The vacation of the above referenced roadway and abolishment of the crossing shall occur upon the completion of the Relief Road and the issuance of a Secretarial Letter memorializing the abolition and closing this investigation.

4. That the following adjacent property owners be added to this proceeding solely for the purpose of effecting the roadway vacation:

WCN Properties, L.P.
900 Kriner Road, Suite 1
Chambersburg, Pa 17201

Target Corporation
1000 Nicollet Mall
Minneapolis, MN 55403

West Penn Power Company
800 Cabin Hill Drive
Greensburg, PA 15601

5. Subject to the payment of funds by Norfolk Southern and PennDOT as specified herein, the Township shall undertake the following work to facilitate the closure and abolition of the Crossing:

- a. To the east of the Crossing, the Township shall establish a Relief Road from the current terminus of or other connection point along Archer Drive (T-820) on the north, to Lighthouse Road (T-425) on the south. Design and construction of the Relief Road commenced in or around Spring of 2020 and was completed in or around September 2021. The Township intends to fund construction of the Relief Road through a combination of funds received pursuant to this Stipulation, grant funding recently awarded to the

Township for this purpose, and otherwise through available funds of the Township.

- b. The Township's responsibilities in designing and building said Relief Road shall include, but not be limited to: (i) preparing a survey prior to commencing construction; (ii) acquiring property, obtaining or vacating any easements or rights of way if necessary, obtaining any required permits and authorizations, and executing and recording any instruments necessary to facilitate the construction of the Relief Road; (iii) taking all actions necessary to vacate the Lighthouse Road roadway from State Route 11 to its intersection with the established Relief Road, as shown on the plan attached hereto as Exhibit "A", in favor of WCN Properties, L.P., Target Corporation, Norfolk Southern, and West Penn Power Company, at its sole cost and expense; and (iv) constructing the new Relief Road.
- c. The Township will remove a portion of the roadway surface on each side of the Norfolk Southern railroad track as follows: (i) from the eastern boundary of the State Route 11 right-of-way to a point extending two (2) feet from the western boundary of the Norfolk Southern railroad track; and (ii) from a point extending two (2) feet from the eastern boundary of the Norfolk Southern railroad track to a point onto the roadway of Lighthouse Road at the boundary of the Norfolk Southern right-of-way, where the Township will place concrete median barriers.

6. That Norfolk Southern shall:

- a. Pay the Township a one-time, lump sum payment of Twenty-Eight Thousand Dollars (\$28,000.00) as incentive for closing and abolishing the crossing.
- b. Remove the Crossing itself and the roadway surface for two feet outside the tracks, at its sole cost and expense.
- c. Remove any crossbucks associated with the Crossing at Norfolk Southern's sole cost and expense.

- d. Issue any and all permits to the Township and/or the Township's contractors, at no cost to the Township or its contractors, to the extent they are required by Norfolk Southern for the removal of the roadway surface within the Norfolk Southern right-of-way. Pay for the costs of any flaggers that are required for the Township's on-site removal of the roadway surface within the Norfolk Southern right-of-way provided that the Township shall provide ninety days' written notice to Norfolk Southern of the Township's intent to commence the roadway surface removal work so that Norfolk Southern can coordinate its work of removal of the Crossing if desired.

7. That PennDOT shall within the PennDOT right of way, perform the following at its sole cost:

- a. Issue a Highway Occupancy Permit to the Township at no cost to the Township consistent with 67 Pa. Code § 441.4.
- b. Stake/paint the State Route 11 right of way 70'/35' from the centerline.
- c. Eradicate any lines and restripe the shoulder adjacent to the Crossing on State Route 11.
- d. Remove turn lane indications associated with the Crossing as deemed necessary by PennDOT.
- e. Remove any railroad crossing signs or signs on State Route 11 indicating a grade crossing on Lighthouse Road.

8. That PennDOT shall also approve a Section 130 incentive payment for at-grade crossing closures in accordance with 23 U.S.C. § 130 of Seven Thousand Five Hundred Dollars (\$7,500.00) based upon the incentive payment by Norfolk Southern to the Township as specified herein.

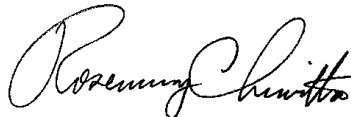
9. That all work will be completed by May 1, 2022, unless another date is agreed to by the parties.

10. Upon the entry of an order by the Commission approving the settlement, the matter will be reassigned to the Commission's Bureau of Technical Utility Services, Rail Safety Section.

11. Upon completion of the project, the parties agree to provide written notice to Rail Safety. Rail Safety shall, within thirty days of receiving written notice, complete a final inspection to determine that the Relief Road has been established and that the work performed by the Parties within the limits of the Crossing was completed satisfactorily and as specified in this order. Nothing herein shall be interpreted as imparting jurisdiction upon Rail Safety or any other entity over or with respect to the design, plans, specifications, execution, or acceptability of the work related to the Township's construction of the Relief Road.

12. If the Relief Road has been established and the balance of the work performed by the Parties within the limits of the Crossing is found to have been completed satisfactorily and as specified in this Order, Rail Safety shall issue a Secretarial Letter closing the matter and officially abolishing the crossing.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: March 10, 2022

ORDER ENTERED: March 10, 2022