



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET
HARRISBURG, PENNSYLVANIA 17120

IN REPLY PLEASE
REFER TO OUR FILE

A-2015-2466693

September 19, 2022

Via Eservice and Email Only
TO ALL PARTIES OF RECORD

Application of Guilford Township for approval to abolish the public at-grade crossing (DOT 535 152 B) where South Third Street (T-559) crosses the single track of Norfolk Southern Railway Company in Guilford Township, Franklin County.

To Whom It May Concern:

By Secretarial Letter dated November 5, 2020, we directed the alteration of the public crossing (DOT 535 152 B) by construction of agreed upon signage, pavement markings and advanced warning flashers where South Third Street crosses, at grade, a single track of Norfolk Southern Railway Company (NS) in Guilford Township, Franklin County. All work at the subject crossing was to be completed on or before December 31, 2021.

On February 16, 2022, Guilford Township (Township) filed a Petition for Time Extension, requesting the Commission grant an extension of time to consider a new matter in the proceeding. Specifically, the Township averred that it had been reviewing a land development plan which would result in the abolishment of the public crossing and the vacation of portions of South Third Street.

By Secretarial Letter dated March 16, 2022, we held in abeyance the Township's Petition for Extension of Time to consider the land development plan and directed certain safety enhancements be installed at the crossing. The Secretarial Letter directed certain temporary safety enhancements be installed at the subject crossing by the Township and NS.

On April 11, 2022, the Township filed a Petition for Recission of our Secretarial Letter dated November 5, 2020 and Application for Abolition of Public Rail-Highway Crossing, requesting the Commission rescind our November 5, 2020 Secretarial Letter and grant its request to abolish the South Third Street crossing. In its petition, the Township averred that the temporary safety enhancements ordered in our March 16, 2022 Secretarial Letter have been installed by the Township and NS.

Upon receipt of the petition, a teleconference was arranged by a Commission staff engineer and was held on May 11, 2022. Representatives of NS, the Pennsylvania Department of Transportation (Department), and Guilford Township participated in the teleconference to discuss the current petition.

During the teleconference, the Township discussed the proposed land development plan that will allow for the abolition of the subject crossing. Preliminary land development plans were included as an attachment to the current petition.

During the teleconference, the Township discussed the scope of work with respect to the crossing. The southern approach of South Third Street will be removed from the driveway serving the commercial property to within 2 feet of the rail, at the Township's sole cost and expense. The northern approach of South Third Street will remain but will be converted to a private roadway and private right-of-way. The northern approach roadway of South Third Street which crosses within the NS right-of-way will be removed, at a minimum, from within two feet from the rail for the entire width of the NS's right-of-way, at the Township's sole cost and expense.

Utility poles within the public right-of-way of the northern approach roadway of South Third Street will remain to serve other facilities located adjacent to the subject crossing.

NS agrees to remove the crossing surface up to points two feet to the outside of each rail, at its sole cost and expense. NS agrees to remove crossbuck assemblies and all other related railroad facilities at the crossing, at its sole cost and expense.

The Township agrees to remove all advance warning signs and other traffic control devices and signs within the limit of the approach roadway, at its sole cost and expense. Portions of the public right-of-way of South Third Street will be abandoned or vacated and dedicated to adjoining property owners, at the Township's sole cost and expense.

NS agrees to provide a one-time payment of \$7,500.00 to the Township as an incentive for the abolition of the crossing. The Department agrees to match the incentive payment of NS and agrees to provide the Township a one-time payment of \$7,500.00 as an incentive for the abolition of the crossing.

During the teleconference, the parties agreed that the Application for Abolition of a Public Rail-Highway Crossing should be granted as the crossing will no longer be necessary because the construction of the relief road as part of the land development plan will provide a new traffic pattern that eliminates the need for the South Third Street crossing. Further, it was agreed by the parties that the temporary safety measures installed in accordance with our March 16, 2022, Secretarial Letter shall remain in place until the relief road is constructed and opened for public use.

It does not appear the facilities of non-carrier public utilities will be affected by the project. However, non-carrier public utility companies were not available for the teleconference to determine the extent of their project involvement. So that the parties are afforded the opportunity to fully participate, we will direct the non-carrier public utility companies to perform their project work at their initial cost. The parties will then determine at a later date whether they have been adequately compensated for their project work and whether a hearing is needed to resolve any remaining issues.

The Commission has tentatively established jurisdiction over those portions of the project along South Third Street from its intersection with Alleman Road north of the crossing to its intersection with Swamp Fox Road south of the subject crossing for the entire width of the South Third Street public right of way. Nothing herein shall be interpreted as imparting the Commission's jurisdiction with respect to the design, plans, specification, execution, or acceptability of the work related to the Township's construction of the relief road.

During the teleconference, it was undecided if the Commission would vacate certain portions of the South Third Street public right of way. The Township has not submitted right of way abandonment plans to the Commission and the parties of record for consideration in this proceeding. Accordingly, it will be necessary for the Township to do so prior to the abolition of the crossing.

In the Application for the Abolition of a Public Rail-Highway Crossing, the Township did not provide a cost estimate for the project work.

The Commission issues this Secretarial Letter in accordance with Section 2702 of the Public Utility Code and finds that the abolition of the South Third Street is necessary and proper for the service, accommodation, convenience or safety of the public.

Accordingly, the petition received April 11, 2022, be and is hereby granted to the extent directed herein.

1. The caption be modified as shown herein.
2. The Application for Abolition of a Public Rail-Highway Crossing requesting the crossing be abolished where South Third Street (T-559) crosses, at grade, the tracks of Norfolk Southern Railway Company (DOT 535 152 B) in Guilford Township, Franklin County shall be granted in accordance with this Secretarial Letter.
3. Our Secretarial Letter dated November 5, 2020, at this docket shall be rescinded.
4. The temporary traffic safety enhancements for the crossing ordered in our March 16, 2022 Secretarial Letter shall remain in place until the relief road is constructed and opened for public use.
5. Guilford Township, at its sole cost and expense, take all actions necessary to establish a relief road as depicted in the preliminary plans attached to the Application for Abolition of a Public Rail-Highway Crossing.
6. Guilford Township, at its sole cost and expense, furnish all material and do all work necessary to establish and maintain any detours or traffic controls that may be required to properly and safely accommodate highway and pedestrian traffic during the time the project is being constructed.

7. Upon completion of the relief road and its opening for public use, Guilford Township, at its sole cost and expense, furnish all materials and perform all work necessary to remove a portion of the roadway surface of South Third Street as follows: (i) from the eastern boundary of the Norfolk Southern Railway Company's right of way to a point extending two (2) feet from the easternmost rail; and (ii) from a point extending two (2) feet from the westernmost rail to a point near the easternmost limit of the private driveway that serves Willard Agri-Services.

8. Upon completion of the relief road and its opening for public use, Guilford Township, at its sole cost and expense, remove all advance warning signs and other traffic control devices and signs within the limits of the approach roadway removals.

9. Upon completion of the relief road and its opening for public use, Norfolk Southern Railway Company, at its sole cost and expense, furnish all material and do all work necessary to remove the grade crossing (crossbuck) signs and remove the crossing surface to points two (2) feet to the outside of each rail.

10. Guilford Township, at its sole cost and expense, pay all compensation for damages, if any, due to owners of property taken, injured or destroyed by reason of the abolition of the subject crossing in accordance with this Secretarial Letter.

11. Any relocation of, changes in or removal of any adjacent structures, equipment or other facilities of any non-carrier public utility company or municipal authority located within the limits of public right-of-way, within the limits of this Commission's jurisdiction, which may be required as incidental to the execution of the project, be made by said public utility company or municipal authority at its initial cost and expense, and in such manner as will not interfere with the construction of the project.

12. All parties involved herein cooperate fully and coordinate work with each other so that during the time the work is being performed, said requirements of each of the parties will be provided for and accommodated insofar as possible.

13. Guilford Township, at least fourteen (14) days prior to the start of work, notify all parties in interest of the actual date on which work will begin.

14. All work required to abolish the crossing be completed on or before December 31, 2023, and that on or before said date Guilford Township, report in writing the date of actual completion of the work to this Commission and certify to the parties of record and this Commission that the work has been satisfactorily completed in accordance with this Secretarial Letter.

15. Upon completion of the abolition of the crossing, Guilford Township, at its sole cost and expense, prepare and submit to all parties of record for review, right of way abandonment plans for those portions of South Third Street that Guilford Township intends the Commission to vacate in accordance with Section 2702 of the Public Utility Code.

16. Upon completion of the abolition of the crossing, Norfolk Southern Railway Company, at its sole cost and expense, maintain its railroad facilities at the former crossing.

17. Upon completion of the abolition of the crossing, Guilford Township, at its sole cost and expense, maintain the remaining portions of South Third Street.

18. Upon completion of the abolition of the crossing, Norfolk Southern Railway Company pay Guilford Township a sum of \$7,500.00 per the agreement of the parties for the abolition of the crossing.

19. Upon completion of the abolition of the crossing, Pennsylvania Department of Transportation pay Guilford Township a sum of \$7,500.00 (Section 130 Federal funds), matching the railroad's contribution per the agreement of the parties for the abolition of the crossing.

20. In all respects not inconsistent herewith, our Secretarial Letter dated March 16, 2022, remains in full force and effect.

21. This Secretarial Letter is without prejudice to the right of any party to recover part or all of any costs incurred by said party in compliance with the provisions of this Secretarial Letter, in accordance with any lawful agreement between it and any other party.

22. The terms of any agreement established in accordance with this Secretarial Letter shall not preclude the Pennsylvania Public Utility Commission from taking any action necessary to protect the public interest, including but not limited to the reassignment or enforcement of any costs or responsibilities assigned or transferred as a result of this Secretarial Letter.

23. Upon completion of the work directed herein, the parties agree to provide written notice to the Rail Safety Section whereupon the Rail Safety Section will complete a final inspection to determine that the relief road has been established and that the work performed by the parties was completed satisfactorily and in accordance with this Secretarial Letter.

24. Upon completion of the final inspection and, if the relief road has been established and the work performed by the parties is found to have been satisfactorily completed in accordance with this Secretarial Letter, the Rail Safety Section shall issue a Secretarial Letter closing the matter and officially abolishing the crossing.

25. Upon completion of the work herein directed, and upon written request from any party of record, this proceeding be scheduled for a hearing at a time and place to be determined by the Commission, for the purpose of taking testimony upon the final allocation of any remaining costs incurred by the non-carrier utility companies and other matters relevant to this proceeding.

The Parties are reminded that failure to comply with this or any Order or Secretarial Letter in this proceeding may result in an enforcement action seeking civil penalties and/or other sanctions pursuant to 66 Pa. C.S. § 3301.

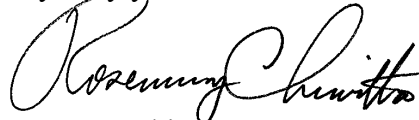
The Commission has waived certain regulatory service provisions as directed by the Commission's Order at M-2021-3028321. Currently, while the Commission's physical facilities are open for business, some of the operational restraints occasioned by the pandemic remain. It is evident that the pandemic and its changing nature require certain procedural flexibility for the public, the regulated community, and the Commission. Toward this end, the

Commission will continue to permit electronic service by the Commission on all parties, regardless of whether a particular party has agreed to electronic service. An exception to this general waiver is where the Public Utility Code requires service by specified means, e.g., Section 702. Additionally, service on Commission staff in proceedings pending before it, whether staff is a party or otherwise, shall be exclusively electronic unless the parties agree otherwise. Filings must be submitted by e-filing with the Secretary of the Commission by opening an e-filing account through the Commission's website and accepting eservice at <https://www.puc.pa.gov/filing-resources/efiling/>. If your filing contains confidential material, you are required to file by overnight delivery to ensure the timely filing of your submission.

If you are dissatisfied with the resolution of this matter, you may, as set forth in 52 Pa. Code §§ 1.31 and 5.44, file a Petition for Reconsideration from Staff Action (Petition) with the Commission within twenty (20) days of the date of this letter. The Petition shall be submitted by e-filing said petition within twenty (20) days, or if no timely request is made, the action will be deemed to be a final action of the Commission.

The Petition MUST include: (1) a written statement (divided into numbered paragraphs) outlining the reasons for the request; (2) the case docket number (it is provided for you at the top right-hand corner of this letter); (3) the party on whose behalf the petition is made; (4) a Certificate of Service on the other parties of record; and (5) a Verification with original signature in accordance with 52 Pa. Code § 1.36.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is fluid and cursive, with a large initial "R".

Rosemary Chiavetta
Secretary