



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

April 26, 2017

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: A-2012-2330212

Dear Secretary Chiavetta:

Enclosed for filing please find the *Petition for Reconsideration from Staff Action dated April 6, 2017* in the above-captioned matter.

I hereby certify that a copy has been sent to all parties of record as indicated by the Certificate of Service.

Very truly yours,

A handwritten signature in blue ink that reads "Gina M. D'Alfonso".

Gina M. D'Alfonso
Senior Counsel in Charge

Enclosure

220/GMD:igl

cc: Parties of Record
Mark Chappell, P.E., Chief, Utilities and Right-of-Way Section
Harold S. Hill, P.E. ADE for Construction, District 4-0
Sarah J. Fenton, District Grade Crossing Engineer, District 4-0
Ron Hull, P.E., PUC

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Commonwealth of Pennsylvania,	:	A-2012-2330212
Department of Transportation for approval of the	:	
alteration of the crossing where SR 6011	:	
(Harrison Avenue) crosses, above grade, the tracks	:	
of Pennsylvania, Northeast Regional Railroad	:	
Authority, operated thereon by Delaware-	:	
Lackawanna Railroad Company, Inc. in the City	:	
of Scranton in Lackawanna County.	:	

PETITION FOR RECONSIDERATION FROM STAFF
ACTION DATED APRIL 6, 2017

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation (Department), by and through its counsel, Gina M. D'Alfonso, Senior Counsel in Charge, in its Petition for Reconsideration from Staff Action dated April 6, 2017 pursuant to 52 Pa. Code §§ 1.31 and 5.44 respectfully represents:

1. The name and address of your Petitioner is:

Commonwealth of Pennsylvania
Department of Transportation
District 4-0
55 Keystone Industrial Park
Dunmore, Pennsylvania 18512

2. The name and address of Counsel for the Petitioner is:

Gina M. D'Alfonso
Senior Counsel in Charge
Commonwealth of Pennsylvania
Department of Transportation
Office of Chief Counsel
P.O. Box 8212
Harrisburg, Pennsylvania 17105-8212

3. The Department filed an application on October 19, 2012, seeking approval to remove an existing structure that carries State Route 6011 and construct a new structure on a slightly new alignment over the tracks of Pennsylvania Northeast Regional Railroad Authority, operated thereon by Delaware-Lackawanna Railroad Company, Inc. (“Railroad”).

4. The Secretarial Letter dated July, 10, 2014 approved the application and directed the Department and the Railroad to *inter alia* perform certain items of work and to assume certain costs and future maintenance.

5. This project is currently being constructed and the Department has encountered several issues. An interim field conference was held on January 5, 2017 where those issues were discussed among the parties present.

6. A Secretarial Letter dated April 6, 2017 sought to address the issues discussed at the January 5, 2017 interim field conference. The Department files this Petition for Reconsideration from Staff Action to preserve its rights, request corrections in the April 6, 2017 Secretarial Letter and to seek time to discuss alternatives with the Railroad.

7. Ordering paragraphs 1 and 3 of said Secretarial Letter address the construction of a concrete retaining wall and fall protection fence and the maintenance thereof on the north side of the bridge/Roaring Brook side of the Railroad. Since the January field conference, the Department has continued to evaluate the need for and the type of retaining wall needed on the north side of the bridge/Roaring Brook side of the Railroad. If the final determination requires such retention, the use of a Geosynthetic Reinforced Soil (GRS) Slope with guiderail is being explored. A GRS

slope will serve the same purpose as a concrete retaining wall with fall protection fence but will require minimal, if any, future maintenance. The Department requests the opportunity to continue its investigation of the need for the retention facility and the use of the GRS slope if one is warranted and to be given the opportunity to discuss this option, as well as the future maintenance, with the railroads.

8. The Department is requesting that ordering paragraphs 1 and 3 of the April 6, 2017 Secretarial Letter be held in abeyance and/or struck to permit the appropriate Department personnel, with authority to bind the Department, the opportunity to discuss the above-referenced concerns with the Railroad, including future maintenance and the cost thereof. The Department would not oppose an ordering paragraph as follows in lieu of ordering paragraphs 1 and 3 of the Secretarial Letter dated April 6, 2017:

The Department of Transportation shall meet with Pennsylvania Northeast Regional Railroad Authority and Delaware-Lackawanna Railroad Company, Inc., and within six (6) months of the date of this Order notify the Commission whether a retaining system is needed to protect the track from displaced material, what type of system, who will bear the cost of construction and who will maintain and bear the cost thereof.


9. The Department is also requesting that modification be made to ordering paragraph 2 regarding the Laurel Line railroad tunnel. The Department believes that there may have been confusion regarding the work that it is willing to perform regarding the tunnel. The Department has offered to and will be is responsible for a pre-construction inspection, a post-construction inspection, and interim seismograph monitoring of the tunnel for the duration of the project. A report will then be submitted to Pennsylvania Northeast Regional Railroad Authority and

Delaware-Lackawanna Railroad Company, Inc. Therefore, the Department requests that the Secretarial Letter be modified as follows: (Deletions are ~~struck~~; Additions are *italicized*.)

2. Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary to perform ~~an analysis~~ *a pre-construction* and *post-construction* inspection and ~~conduct continued~~ *interim seismograph* monitoring during the bridge construction at the tunnel carrying the Laurel Line in the vicinity of the south abutment and provide, all findings *in a report* to both Pennsylvania Northeast Regional Railroad Authority and Delaware-Lackawanna Railroad Company, Inc.

WHEREFORE, the Department respectfully requests that the Commission modify its Secretarial Letter entered April 6, 2017, consistent with its Petition for Reconsideration from Staff Action.

Respectfully submitted,



Gina M. D'Alfonso
Senior Counsel in Charge
Commonwealth of Pennsylvania
Department of Transportation
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212
Telephone No. (717) 787-3128
gdalfonso@pa.gov

DATED: April 26, 2017

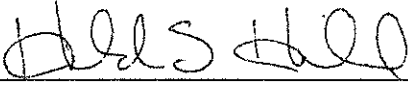
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Verification

I, Harold S. Hill, P.E., Assistant District Executive for Construction, for the Commonwealth of Pennsylvania, Department of Transportation, Engineering District 4-0 in this matter, hereby verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information and belief. I understand that this statement is made subject to penalties of 18 Pa. C.S. §4904, relating to the unsworn falsification to authorities.

DATED: 4/26/17



Harold S. Hill, P.E.
Assistant District Executive for Construction

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the *Petition for Reconsideration from Staff Action Dated April, 6, 2017* was served upon the parties listed below, in accordance with the requirements of 52 Pa. Code §§ 1.54 and 5.342(e), by First-Class mail, postage prepaid, this 26th day of April, 2017:

Lori Ransom
Delaware and Lackawanna Railroad
280 Cliff Street
Scranton, PA 18509

Elmer Day
Comcast Cable
One Comcast Way
Duryea, PA 18642

Gene Skelton
Scranton Sewer Authority
312 Adams Avenue
Scranton, PA 18503

Kevin Schlosser
Verizon PA Inc.
121 Adams Avenue
Scranton, PA 18503

Gary Cavill, Engineer
Greenman-Peterson
50 Glenmaura National Boulevard
Moosic, PA 18507

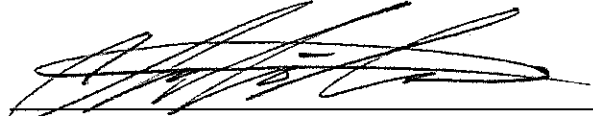
Charlene Doyle
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280 Cliff Street
Scranton, PA 18509

Ed Dunlap
UGI Penn Natural Gas
One UGI Center
Wilkes-Barre, PA 18711

Terry Baumgardner
PPL Electric Utilities Corporation
600 Larch Street
Scranton, PA 18509

John Pocius, Engineer
La Bella Associates
1000 Dunham Dr.
Dunmore, PA 18512

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Iber Guerrero-Lopez, Legal Assistant to
Gina M. D'Alfonso
Senior Counsel in Charge
Commonwealth of Pennsylvania
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P.O. Box 8212
Harrisburg, PA 17105-8212
Telephone No. (717) 787-3128

DATED: April 26, 2017