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September 28, 2020

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

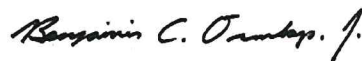
Re: Application of CSX Transportation, Inc. for Approval of the Abolition of the Crossing (DOT 140 634 G) where Cemetery Avenue crosses above grade the tracks of CSX Transportation, Inc. located in the City of Philadelphia, Philadelphia County, Pennsylvania, and the allocation of cost thereto Docket No. A-2019-3013783

Dear Secretary Chiavetta:

Enclosed for filing please find the *Prehearing Conference Memorandum of CSX Transportation, Inc.*, 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,

Sincerely yours,



Benjamin C. Dunlap, Jr., Esquire

BCDjr/io
Enclosure
cc: All Parties of Record (w/enc.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of CSX Transportation, Inc. for :
Approval of the Abolition of the Crossing (DOT :
140 634 G) where Cemetery Avenue crosses above :
grade the tracks of CSX Transportation, Inc. : Docket No. A-2019-3013783
located in the City of Philadelphia, Philadelphia :
County, Pennsylvania, and the allocation of cost :
thereto. :

**PREHEARING CONFERENCE MEMORANDUM
OF CSX TRANSPORTATION, INC.**

TO ADMINISTRATIVE LAW JUDGE DARLENE D. HEEP:

CSX Transportation Inc. (“CSXT”), Applicant, files this Prehearing Conference Memorandum in accordance with your Prehearing Conference Order dated August 26, 2020.

I. HISTORY OF THE PROCEEDING

CSXT submitted an Application (“Application”) to the Public Utility Commission (“PUC” or “Commission”) for approval to abolish the public rail-highway crossing where CSXT’s tracks cross under a highway bridge carrying Cemetery Avenue in the City of Philadelphia (“City”) on October 24, 2019.

An initial field investigation and conference was conducted on February 26, 2020, by the Commission’s Bureau of Technical Utility Services, Rail Safety Section (“Rail Safety”). In attendance were the Pennsylvania Department of Transportation (“PennDOT”), CSXT, the Philadelphia Water Department, the City Streets Department, and a local landowner. As the City Streets Department objected to the crossing abolition at the field meeting, Rail Safety requested that the matter be referred to the Office of Administrative Law Judge.

A telephonic prehearing conference was scheduled for September 29, 2020, before

Administrative Law Judge (“ALJ”) Darlene Heep. On August 20, 2020, a Prehearing Conference Order was issued. The parties were instructed to provide Prehearing Memoranda no later than noon on September 28, 2020.

II. CSXT POSITION STATEMENT

CSXT filed this Application to Abolish the Cemetery Avenue crossing because the crossing is not necessary for the public safety or convenience. Although the crossing has a daily ADT of approximately 5,400 vehicles, a traffic study commissioned by CSXT found the crossing abolition would have no adverse effect on the current desirable levels of service at adjacent street intersections. All the study area intersections are currently under capacity, meaning that the intersections could handle additional traffic without the need for geometric or operational improvements.

CSXT’s traffic engineer conducted travel time runs to assess the effect on travel times in the study area if the crossing were abolished. The study found that in the worst case scenario where a vehicle was on one side of the former crossing and now wanted to travel to the other side, the increased travel time would be less than two minutes. However, most traffic would not be traveling from one side of the bridge to the other, so additional travel times for that traffic due to the crossing elimination would be even less.

Due to the multiple locations of police, fire and paramedic services in the area of the crossing, the traffic study found that abolition of the crossing would have no adverse effect on emergency service provider response times. The roadway network in the area of the crossing provides connected through streets and complete street blocks that provide many travel route options for emergency service providers.

A subsequent study found that in a recent 24-hour weekday period, 119 pedestrians

crossed from one side of the bridge to the other. If the bridge were removed, the average pedestrian would spend an additional six minutes to travel from one side of the former crossing to the other. However, with the location of likely destinations in the area, the additional walking distances and times would likely be less.

CSXT thinks the Cemetery Avenue bridge should be removed, as it is a redundant crossing that serves no public need. The bridge is currently in fair condition, according to its most recent inspection report. However, CSXT proposes to remove the bridge now, in connection with track lowering and other work being performed in the area for its clearance project to permit intermodal traffic on the line.

CSXT is not seeking removal of the Cemetery Avenue bridge in connection with its clearance project, however. The bridge will have sufficient vertical clearance to permit intermodal use of the rail line with planned track lowering if it stays in place.

If the crossing is abolished, CSXT will agree to remove the bridge superstructure at its sole cost and expense. It will agree to construct roadway barricades and fencing as may be ordered by the Commission on each side of the former crossing at its sole cost and expense, to be maintained by the City at its sole cost and expense.

CSXT proposes that the bridge abutments, which are essentially part of the retaining wall in the railroad cut, would remain in place. CSXT would agree to maintain the remaining abutments at its sole cost and expense.

Alternatively, if the City thinks there is a public need for the crossing, CSXT requests that future maintenance responsibilities for the bridge superstructure be reassigned from CSXT to the City, at its sole cost and expense. CSXT would agree to continue to maintain the abutments at its sole cost and expense.

III. CSXT PREHEARING CONFERENCE MEMORANDUM

A. Service

Direct all service on, and communication to, CSXT in this proceeding:

By Mail: Benjamin C. Dunlap, Jr.
Nauman, Smith, Shissler & Hall, LLP
200 North Third Street, 18th Floor
Harrisburg, PA 17101

By Telephone: (717) 236-3010 ext. 121

By E-mail: bdunlapjr@nssh.com

B. Statement Regarding Settlement

CSXT is open and willing to discuss settlement of this matter.

C. Plan and Schedule of Discovery

CSXT proposes that discovery be conducted consistent with the Commission's regulations at 52 Pa. Code § 5.321, *et seq.*

D. Proposed Litigation Schedule

CSXT concurs with the litigation schedule proposed by the Commission's Bureau of Investigation & Enforcement ("I&E") as follows:

1. Written direct testimony due on December 18, 2020.
2. Written rebuttal testimony due on January 22, 2021.
3. Witness schedule due 3 business days before the hearing.
4. Hearing to occur the week of February 8, 2021 or February 15, 2021. (If the hearing cannot be held in person, CSXT proposes that the hearing be conducted via Teams or similar virtual platform. CSXT would oppose the hearing being conducted by telephone, due to the technical nature of the testimony and expected exhibits.)
5. Briefing schedule to be established at the hearing.

E. Names and Addresses of Witness(es) to be Presented

Derek S. Mihaly, P.E.
Project Manager II
CSX Transportation, Inc.
4 Neshaminy Interplex
Suite 205
Trevoise, PA 19053
Phone: (215) 218-3391
Email: derek_mihaly@csx.com

George E. Creasy, P.E.
President
Senior Traffic Engineer
Grove Miller Engineering, Inc.
4800 Linglestown Road, Suite 307
Harrisburg, PA 17112
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CSXT reserves the right to change the identified witnesses and/or present additional witnesses as it deems necessary based on the issues identified by the parties.

1. Issues to be Addressed

- a) Whether the abolition of Cemetery Avenue is in the public interest.
- b) If the crossing is not abolished, whether it would be fair and equitable to reassign maintenance responsibilities for the bridge superstructure to the City.

2. Statement of Evidence to be Presented

Mr. Creasy will testify as to the need for the crossing, based upon the traffic study his firm conducted. Mr. Mihaly will testify as to CSXT's operations on the line and maintenance responsibilities for the bridge.

Respectfully submitted,



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Dated: September 28, 2020

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Inc. located in the City of Philadelphia, :
Philadelphia County, Pennsylvania, and the :
allocation of cost thereto. :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Prehearing Conference Memorandum** dated September 28, 2020, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service by Electronic Mail Only

Honorable Darlene Heep
Administrative Law Judge
Pennsylvania Public Utility Commission
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dheep@pa.gov

Kayla L. Rost
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/s/Ijeoma N. Okereke
Ijeoma N. Okereke, Legal Assistant