



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

April 9, 2021

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Application of the Department of Transportation of the Commonwealth of Pennsylvania for approval to alter the crossings where State Route 3104 crosses, above grade, the tracks of CSX Transportation Inc. (DOT 584 825 U), Norfolk Southern Railway Company (DOT 507 455 K), and the Pittsburgh and Ohio Central Railroad Company (DOT Unknown) in the City of Pittsburgh, Stowe Township and McKees Rocks Borough, Allegheny County.

Docket No. A-2020-3020667

I&E Prehearing Conference Memorandum

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Bureau of Investigation and Enforcement's ("I&E") **Prehearing Conference Memorandum** in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please contact the undersigned.

Sincerely,

A handwritten signature in blue ink that reads "Kayla L. Rost".

Kayla L. Rost
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

KLR/ac
Enclosures

cc: Per Certificate of Service
Nicholas Miskanic, Legal Assistant (via email - nmiskanic@pa.gov)
Daniel Helfrich, P.E. (via email - dhelfrich@pa.gov)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of Transportation :
of the Commonwealth of Pennsylvania for :
approval to alter the crossings where State Route :
3104 crosses, above grade, the tracks of CSX :
Transportation Inc. (DOT 584 825 U), Norfolk : Docket No. A-2020-3020667
Southern Railway Company (DOT 507 455 K), :
and the Pittsburgh and Ohio Central Railroad :
Company (DOT Unknown) in the City of :
Pittsburgh, Stowe Township and McKees Rocks :
Borough, Allegheny County. :

**PREHEARING CONFERENCE MEMORANDUM
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

TO ADMINISTRATIVE LAW JUDGE CONRAD A. JOHNSON:

The Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement ("I&E") files this Prehearing Conference Memorandum in accordance with Administrative Law Judge ("ALJ") Conrad A. Johnson's Prehearing Conference Order dated March 10, 2021.

I. HISTORY OF THE PROCEEDING

By letter dated July 2, 2020, the Pennsylvania Department of Transportation ("PennDOT") submitted an application ("Application") for approval to alter the public highway bridge crossing where State Route 3104 crosses the tracks of CSX Transportation, Inc. ("CSXT") (DOT No. 584 825 U), Norfolk Southern Railway

Company (“NS” or “Norfolk Southern”) (DOT No. 507 455 K), and the Pittsburgh & Ohio Central Railroad Company (“POHC”) (DOT unknown) in the City of Pittsburgh, Stowe Township, and McKees Rocks Borough, Allegheny County. Specifically, PennDOT sought approval to install new protective fencing at the crossing. Receipt of PennDOT’s application by the Commission was confirmed by Secretarial Letter dated July 6, 2020.

An initial field investigation and conference was held on October 21, 2020. The Commission’s Bureau of Technical Utility Services, Rail Safety Section (“Rail Safety”), PennDOT, CSXT, Norfolk Southern, POHC, the City of Pittsburgh, McKees Rocks Borough, Peoples Natural Gas Company, and Verizon attended the field conference. As outlined in the preliminary plans attached to the Application, PennDOT proposes to replace the expansion dam, repair and replace the bridge deck concrete barriers, replace the protective fencing above the railroads, replace the strip seals, replace some sidewalk with concrete filled steel grate decking, repair miscellaneous steel and concrete, paint some parts of the steel structure relating to the pedestrian railing and sidewalk support, and replace the approach slab. PennDOT agrees to complete the construction project at its sole cost and expense, utilizing 80% federal funds and 20% state funds.

On February 4, 2021, Rail Safety requested that the matter be referred to the Office of Administrative Law Judge, noting that the City of Pittsburgh objected to the proposed resolution of the future maintenance and costs associated with the bridge lighting and removal of snow, ice, and debris from the sidewalks.

On March 10, 2021, a Secretarial Letter was issued granting PennDOT permission to submit final detailed constructions plans of the proposed work and allowing PennDOT to begin construction once the plans are submitted and approved by the Commission. Notably, the Secretarial Letter referred the outstanding future maintenance items and any other unresolved items to the Office of Administrative Law Judge for adjudication.

Additionally, on March 10, 2021, Administrative Law Judge Conrad A. Johnson issued a Prehearing Conference Order for Telephonic Hearing and Call-in Telephone Prehearing Conference Notice, scheduling a telephonic prehearing conference for April 13, 2021. The parties were instructed to provide Prehearing Memoranda no later than 4:00 p.m. on April 9, 2021.

II. I&E PREHEARING CONFERENCE MEMORANDUM

A. Service

All service on, and communication to, I&E in this proceeding should be addressed to:

By Mail: Kayla L. Rost
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

By Telephone: (717) 787-1888¹

By E-mail: karost@pa.gov

¹ Due to the closure of the Keystone Building, the undersigned currently does not have access to this telephone number and requests that the Parties correspond via email until further notice.

B. Statement Regarding Settlement

I&E is open and willing to discuss settlement of this matter. Currently, I&E is not aware of any settlement discussions at this time.

C. Plan and Schedule of Discovery

I&E proposes that discovery be conducted consistent with the Commission's regulation at 52 Pa. Code §§ 5.321, *et seq.* I&E intends to submit interrogatories to the parties shortly after the prehearing conference.

D. Discovery Orders

I&E does not propose any modifications to the Commission's regulations pertaining to discovery at 52 Pa. Code §§ 5.321, *et seq.*

E. Proposed Litigation Schedule

I&E provided a proposed litigation schedule to counsel for PennDOT, Norfolk Southern, CSXT, and McKees Rocks Borough. Counsel responded with no objection to I&E's proposed schedule. Accordingly, I&E proposes the following litigation schedule:

1. Written direct testimony due on July 21, 2021.
2. Written rebuttal testimony due on August 25, 2021.
3. Witness schedule due 3 business days before the hearing.
4. Hearing to occur the week of September 27, 2021. The parties agree that only one day will be needed for the evidentiary hearing.
5. Briefing schedule to be established at the hearing.

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

Daniel R. Helfrich, P.E.
Pennsylvania Public Utility Commission
Bureau of Technical Utility Services
Transportation Division- Rail Section
400 North Street
Harrisburg, PA 17120
(717)787-5189
dhelfrich@pa.gov

I&E reserves the right to modify the identified witness and/or present additional witnesses as it deems necessary based on the issues identified by the parties.

1. Issues to be Addressed

- 1) Which party or parties shall be assigned future maintenance and costs associated with the following:
 - a) bridge lighting (maintenance of and cost to energize);
 - b) navigational lighting (maintenance of and cost to energize);
 - c) removal of snow, ice, debris, and vegetation from the sidewalks;
 - d) stairways and stairway railings;
 - e) removal of snow, ice, debris, and vegetation from the stairways;
 - f) bridge ramps;
 - g) road signage and supports; and
 - h) pavement markings.

2. Statement of Evidence to be Presented

Mr. Helfrich will testify to all matters pertaining to the public safety, present conditions, existing maintenance, and future maintenance at the subject bridge crossing. Mr. Helfrich may testify to additional matters based upon the issues identified by the parties.

Respectfully submitted,



Kayla L. Rost

Prosecutor

PA Attorney ID No. 322768

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
Phone: (717) 787-1888
Email: karost@pa.gov

Dated: April 9, 2021

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of Transportation :
of the Commonwealth of Pennsylvania for :
approval to alter the crossings where State Route :
3104 crosses, above grade, the tracks of CSX :
Transportation Inc. (DOT 584 825 U), Norfolk : Docket No. A-2020-3020667
Southern Railway Company (DOT 507 455 K), :
and the Pittsburgh and Ohio Central Railroad :
Company (DOT Unknown) in the City of :
Pittsburgh, Stowe Township and McKees Rocks :
Borough, Allegheny County. :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing
Prehearing Conference Memorandum dated April 9, 2021, 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 Conrad A. Johnson
Administrative Law Judge
Pennsylvania Public Utility Commission
Piatt Place, Suite 220
301 Fifth Avenue
Pittsburgh, PA 15222
cojohnson@pa.gov

Benjamin C. Dunlap Jr., Esquire
Nauman Smith Shissler & Hall
200 North Third Street
18th Floor
Harrisburg, PA 17101
bdunlapjr@nssh.com

Jennifer Brown-Sweeney, Esquire
Pennsylvania Department of
Transportation
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212
jbrownswee@pa.gov

Megan M. Turnbull, Esquire
Weiss Burkardt Kramer LLC
445 For Pitt Blvd., Suite 503
Pittsburgh, PA 15219
Solicitor for McKees Rocks Borough
mturnbull@wbklegal.com

Jared Rishel
G&W Northeast West Roads
201 N Penn Street
Punxsutawney, PA 15767
jrishel@gwrr.com

Debbie Delia
Verizon Pennsylvania LLC
15 East Montgomery Avenue, 2nd Floor
Pittsburgh, PA 15212
deborah.d.delia@verizon.com

Rich Fitzgerald
Allegheny County Executive
101 County Courthouse
436 Grant Street
Pittsburgh, PA 15219
executive@alleghenycounty.us

Kyle Tessmer
Duquesne Light Company
2825 New Beaver Avenue, Building 6
Pittsburgh, PA 15233
ktessmer@duqlight.com

Mike Gable
City of Pittsburgh
414 Grant Street, 3rd Fl.
Pittsburgh, PA 15219
mike.gable@pittsburghpa.gov

Ford McLean
AT&T Local Network Services
3487 Beck Road
Butler, PA 16002
fmclean@att.com

Nicholas Martini
Stowe Township
555 Broadway Avenue
McKees Rocks, PA 15136
nmartinistowetownship@gmail.com

Arletta Scott Williams
Allegheny County Sanitary Authority
(ALCOSAN)
3300 Preble Avenue
Pittsburgh, PA 15233-1092
leah.berfiled@alcosan.org

Ruth A. Pompey
McKees Rocks Borough
340 Bell Avenue
McKees Rocks, PA 15136
manager@mckeesrockspa.us

Dominic Tarella
Columbia Gas of PA, Inc.
4000 Energy Drive
Bridgeville PA 15017
dtarella@nisource.com

Michael W. Denny
Design Manager
Peoples
375 North Shore Drive
Pittsburgh, PA 15212
michael.denny@peoples-gas.com

Rick Moslen
Comcast Central Office
1530 Chartiers Ave.
Pittsburgh, PA. 15204
Richard_Moslen@cable.comcast.com

Chad Boutet, P.E.
Assistant Vice President Engineering
Genesee and Wyoming Northeast Region
chad.boutet@gwrr.com

Dawn Werner
Manager, Engineering
Genesee and Wyoming Northeast Region
dwerner@gwrr.com

George Koleck
The Municipal Authority of
Borough of West View – Water
2428 Rochester Road
Pittsburgh, PA 15143
gkoleck@wvauthority.com

Larry Goglin
Windstream
98 Industrial Park
Brookville, PA 15825
Larry.goglin@windstream.com

Stephen L. Putt
Level 3 Communications
200 Technology Drive
Pittsburgh, PA 15219
Stephen.Putt@Level3.com

Brad LeViere
Century Link (United Telephone)
160 Unionville Road
Butler, PA 16001
Bradley.n.leviere@centurylink.com

Amanda Peterson
Shell Appalachia / Shell Oil Co.
2100 Georgetown Drive
Sewickley, PA 15143
appalachia@shell.com

Robert A. Weimar
Pittsburgh Water & Sewer Authority
(PWSA)
Penn Liberty Plaza 1
1200 Penn Avenue
Pittsburgh, PA 15222
rweimar@pgh2o.com



Kayla L. Rost
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov