



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

November 23, 2021

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

RE: **Docket No. A-2019-3009782**

Dear Secretary Chiavetta,

Enclosed please find the Department's *Petition to Transfer Jurisdiction* 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,

Is! Anthony Czuchnicki

Anthony Czuchnicki
Assistant Counsel

Encls.

cc: Parties of Record
Mark Chappell, P.E., Utilities & Right of Way Section
Cody Young, Right of Way Section
Jack Clark, Right of Way Section
Vincent Komacko, Jr., R/W Administrator, District 12-0
File

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of Transportation : Docket No.: A-2019-3009782
of the Commonwealth of Pennsylvania :
for approval to alter the public below grade :
crossing by widening State Route 0051 which :
crosses under the track of Wheeling & Lake :
Erie Railway Company (DOT No. 472 722 J) :
In Rostraver Township, Westmoreland County, :
And the allocation of costs incident thereto : **Electronically Filed**

**PETITION OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
TO TRANSFER JURISDICTION TO COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY**

COMES NOW, the Commonwealth of Pennsylvania, Department of Transportation, by its attorney, Anthony Czuchnicki, Assistant Counsel, and in its Petition to Transfer Jurisdiction to the Court of Common Pleas of Westmoreland County respectfully represents:

1. The name and address of your Petitioner is the Department of Transportation of the Commonwealth of Pennsylvania, P.O. Box 8212, Harrisburg, Pennsylvania 17105-8212.
2. The name and address of counsel for the Petitioner is Anthony Czuchnicki, Assistant Counsel, Office of Chief Counsel, Department of Transportation of the Commonwealth of Pennsylvania, P.O. Box 8212, Harrisburg, Pennsylvania 17105-8212.
3. By Order adopted and entered August 26, 2021, in the proceeding docketed at Application Docket No. A-2019-3009782, your Honorable Commission approved the Application of the Department of Transportation (Department) to alter the public below grade crossing by widening State Route 0051 which crosses under the track of Wheeling & Lake Erie Railway Company in Rostraver Township, Westmoreland County, and the allocation of costs incident thereto. **(Exhibit A)**

4. By the aforesaid Order, your Honorable Commission directed, at paragraphs 1 and 2, that certain property be appropriated and for the purpose of the aforesaid project, pursuant to Section 2702 of the Public Utility Code. 66 Pa.C.S. § 2702.

5. The aforesaid project necessitated the appropriation of property within North Rostraver Township, Westmoreland County, identified in Record Book 021, Page 40956, recorded on October 1, 2021 in the Westmoreland County Recorder of Deeds Office as Instrument Number 202110010040956 (Department Claim No. 6401940000 – Parcel 130).

6. The Department has determined that the just compensation for the property appropriation is \$40,700.00 which, as of the date of this Petition, has not been accepted by the Railway.

7. The name and address of the Railway is:

Pittsburgh & West Virginia Railroad Company
Attn: David Lesser, President
301 Winding Road
Old Bethpage, NY 11804-1322

8. A true and correct copy of this claim for property damage pursuant to Section 2704 of the Public Utility Code was duly served upon the Railway. 66 Pa.C.S. § 2704.

WHEREFORE, your Petitioner, Commonwealth of Pennsylvania, Department of Transportation requests your Honorable Commission, pursuant to 66 Pa.C.S. Section 2704, refer this matter to the Court of Common Pleas of Westmoreland County, for the filing of a Petition to deposit the estimated just compensation amount into court pursuant to the Eminent Domain Code, 26 Pa.C.S. § 307.

Respectfully submitted,

Date: November 23, 2021

/s/ Anthony Czuchnicki
Anthony Czuchnicki, Assistant Counsel- ID No. 312620
Commonwealth of Pennsylvania, Department of Transportation
Office of Chief Counsel

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**



I hereby CERTIFY
that this document is recorded
in the RECORDERS OFFICE
of Westmoreland County
Pennsylvania

Frank Schiefer

Frank Schiefer • Recorder of Deeds

Public Meeting held August 26, 2021

Commissioners Present:

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

Application of the Department of Transportation of the Commonwealth of Pennsylvania for approval to alter the public below grade crossing by widening State Route 0051 which crosses under the track of Wheeling & Lake Erie Railway Company (DOT No. 472 722 J) in Rostraver Township, Westmoreland County, and the allocation of costs incident thereto.

Docket No.
A-2019-3009782

ORDER

BY THE COMMISSION:

Paragraph No. 2 of the Commission's Secretarial Letter dated July 24, 2019, directed Pennsylvania Department of Transportation (Department) to submit for approval the right-of-way plans for the highway-railroad crossing alteration project involved in this proceeding.

The final revised right-of-way plans were received July 8, 2021 and consist of twenty-seven (27) sheets. The Department is requesting the Commission approve the right-of-way plans that include appropriation of eight tracts of property from the Pittsburgh & West Virginia Railroad. Tract Nos. 9, 10 and 11 are "Required Substitute Right-of-Way in fee for the Pittsburgh & West Virginia Railroad" and will be acquired by the Department in favor of the Pittsburgh & West Virginia Railroad through normal Department policies and procedures.



EXHIBIT "A"

The Department avers that each party to the proceeding was served a copy of the plan for review. None of the parties has advised this Commission that it objects to approval of the plan.

The metes and bounds descriptions required for the property appropriation associated with the said right-of-way plans were submitted to the Commission on July 8, 2021 and are defined herein by this Order.

We hereby approve the right-of-way plans and appropriate the property described in detail in the ordering paragraphs.

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

The record having been certified to this Commission, we issue this order pursuant to Sections 335(a) and 2702 of the Public Utility Code, (66 Pa. C.S. §335(a), §2702);

THEREFORE,

IT IS ORDERED:

1. That the right-of-way plans submitted by the Pennsylvania Department of Transportation on July 8, 2021, consisting of twenty-seven (27) sheets and identified as “COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION, DRAWINGS RE-ESTABLISHING LIMITED ACCESS HIGHWAY AND AUTHORIZING ACQUISITION OF RIGHT-OF-WAY FOR STATE ROUTE 0070 SECTION E10 R/W IN WESTMORELAND COUNY,” which plans are hereby approved and made part hereof.

2. That in accordance with the provisions of Section 2702 of the Public Utility Code, 66 Pa. C.S. §2702, the following described property be and is hereby taken and appropriated for the purpose of the improvement in accordance with the right-of-way plans approved in Paragraph No. 1 of this order, and that Paragraph No. 2 of this order and the plans approved in Paragraph No. 1 of this order shall be recorded in the Recorder of Deeds of Westmoreland County, and shall be indexed under the name or names of the record owners of said property, grantor(s), and the Commonwealth of Pennsylvania Department of Transportation, grantee, at the sole cost and expense of the Commonwealth of Pennsylvania Department of Transportation applicant herein:

PITTSBURGH & WEST VIRGINIA RAILROAD
AN UNINCORPORATED BUSINESS TRUST ORGANIZED IN
PENNSYLVANIA

C/O POWER REIT
301 WINDING ROAD
OLD BETHPAGE, NY 11804-1322

C/O WHEELING & LAKE ERIE RAILWAY COMPANY
(SUBLESSEE AND OPERATOR)
100 EAST FIRST STREET
BREWSTER, OHIO 44613

ALL THOSE CERTAIN TRACTS of land located in Rostraver Township,
Westmoreland County, Commonwealth of Pennsylvania, being bound and described as follows:

Tract No. 1
(Required Right-of-Way)

Beginning at a point on the westerly Legal Right-of-Way Line of State Route 0051, said point being at the intersection of the westerly Legal Right-of-Way Line for State Route 0051 and the northerly Legal Right-of-Way Line of a former Township Road known as Ridge Road, thence continuing along the Legal Right-of-Way line of former Ridge Road S 80° 49' 58" W, 90.82 feet to a point on the Required Right-of-Way Line for

State Route 0051, said point being approximately 148 feet left of and opposite State Route 0051 Survey and Right-of-Way baseline, station 782+10, thence continuing along said Required Right-of-Way Line N 66° 12' 28" E, 87.88 feet to a point on the Legal Right-of-Way Line for State Route 0051, said point being approximately 60 feet left of and opposite State Route 0051 Survey and Right-of-Way baseline, station 782+10, thence continuing along said Legal Right-of-Way Line S 23° 47' 32" E, 22.93 feet to a point, the point of beginning.

Containing 0.023 acres (1,007.586 sq ft.).

Tract No. 2
(Required Right-of-Way)

Beginning at a point on the westerly Legal Right-of-Way Line of State Route 0051, said point being 60.00 feet left of and opposite State Route 0051 Survey and Right-of-Way baseline, approximate station 782+98, thence continuing along the Legal Right-of-Way line N 78° 36' 59" E, 35.84 feet to a point, thence continuing along said Legal Right-of-Way Line S 23° 47' 32" E, 61.44 feet to a point, thence continuing along said Legal Right-of-Way Line S 78° 36' 59" W, 35.84 feet to a point on the Required Right-of-Way Line for State Route 0051, said point being 60 feet left of and opposite State Route 0051 Survey and Right-of-Way baseline, approximate station 782+37, thence continuing along said Required Right-of-Way Line N 23° 47' 32" W, 61.44 feet to a point, the point of beginning.

Containing 0.049 acres (2,150.230 sq ft.).

Tract No. 3
(Required Right-of-Way)

Beginning at a point on the easterly Legal Right-of-Way Line of State Route 0051, said point being at the intersection of the easterly Legal Right-of-Way Line for State Route 0051 and the property line of Pittsburgh & West Virginia Railroad, thence continuing along the Legal Right-of-Way line N 23° 47' 32" W, 61.44 feet to a point, thence continuing along said Legal Right-of-Way Line N 78° 36' 59" E, 30.72 feet to a point on the Required Right-of-Way line for State Route 0051, said point being 60.00 feet right of and opposite State Route 0051 Survey and Right-of-Way baseline, approximate station 782+72, thence continuing along said Required Right-of-Way Line S 23° 47' 32" E, 61.44 feet to a point at the intersection of the Required Right-of-Way Line for State Route 0051 and the property line of Pittsburgh & West Virginia Railroad, said point being 60 feet right of and opposite State Route 0051 Survey and Right-of-Way baseline, approximate station 782+10, thence continuing along said property line S 78° 36' 59" W, 30.72 feet to a point, the point of beginning.

Containing 0.042 acres (1,843.055 sq ft.).

The above three tracts of land shown on Commonwealth of Pennsylvania Department of Transportation Drawings Re-Establishing Limited Access Highway and Authorizing Acquisition of Right-of-Way for State Route 0070, Section E10 R/W in Westmoreland County, as Required Right-of-Way designated and delineated as part of parcel 130 on sheet 222 of 224 of said drawings, is a portion of real estate which became legally vested in Pittsburgh & West Virginia Railroad, an unincorporated business trust organized in Pennsylvania, by deed of The Pittsburgh & West Virginia Railway Company, a consolidated corporation organized under the laws of Pennsylvania and West Virginia, dated December 29, 1967, and recorded October 3, 1968, in Deed Book 1997, Page 363, in the Westmoreland County Courthouse, c/o Wheeling & Lake Erie Railway Company (sublessee) by sublease agreement of Norfolk and Western Railway Company, a Virginia corporation, dated May 17, 1990, and recorded May 21, 1990, in Deed Book 2947, Page 361, in the Westmoreland County Courthouse.

Tract No. 4

(Required Drainage Easement)

Beginning at a point of intersection with westerly Legal Right-of-Way Line for State Route 0051 and the Required Drainage Easement, said point being approximately 60 feet left of and opposite State Route 0051 Survey and Right-of-Way baseline, station 784+05, thence continuing along the Legal Right-of-Way Line S 23° 47' 32" E, 36.00 feet to a point on the Required Drainage Easement, said point being approximately 60 feet left of and opposite State Route 0051 Survey and Right-of-Way baseline, station 783+69, thence continuing along said Required Drainage Easement S 84° 59' 34" W, 310.54 feet to a point, said point being approximately 63 feet radially left of the W&LE Railroad Survey and Right-of-Way centerline, approximate station 5028+23, thence continuing along said Required Drainage Easement N 03° 14' 11" W, 10.28 feet to a point on the property line of Pittsburgh & West Virginia Railroad, said point being approximately 73 feet radially left of the W&LE Railroad Survey and Right-of-Way centerline, approximate station 5028+23, thence continuing along said property line N 69° 22' 35" E, 90.49 feet to a point on the Required Drainage Easement, said point being 96 feet radially left of the W&LE Railroad Survey and Right-of-Way centerline, approximate station 5029+12, thence continuing along said Required Drainage Easement N 85° 08' 34" E, 211.48 feet to a point, the point of beginning.

Containing 0.216 acres (9,422.609 sq ft.).

Tract No. 5
(Required Drainage Easement)

Beginning at a point on the Required Right-of-Way Line Easement for Highway Purpose and the Required Drainage Easement, said point being approximately 165 feet radially right of the Relocated Finley Road Survey and Right-of-Way centerline, station 82+36, thence continuing along said Required Right-of-Way Line Easement for Highway Purpose S 77° 08' 16" E, 72.58 feet to a point on the Required Drainage Easement, said point being approximately 159 feet radially right of the Relocated Finley Road Survey and Right-of-Way centerline, station 82+85, thence continuing along said Required Drainage Easement S 13° 42' 20" W, 15.98 feet to a point, said point being 175 feet radially right of the Relocated Finley Road Survey and Right-of-Way centerline, station 82+85, thence continuing along said Required Drainage Easement S 86° 40' 39" W, 60.88 feet to a point, said point being 196 feet radially right of the Relocated Finley Road Survey and Right-of-Way centerline, station 82+48, thence continuing along said Required Drainage Easement N 09° 58' 35" W, 35.75 feet to a point, the point of beginning.

Containing 0.038 acres (1,660.916 sq ft.).

The above two tracts of land shown on Commonwealth of Pennsylvania Department of Transportation Drawings Re-Establishing Limited Access Highway and Authorizing Acquisition of Right-of-Way for State Route 0070, Section E10 R/W in Westmoreland County, as Required Drainage Easement designated and delineated as part of parcel 130 on sheets 221, 222 and 224 of 224 of said drawings, is a portion of real estate which became legally vested in Pittsburgh & West Virginia Railroad, an unincorporated business trust organized in Pennsylvania, by deed of The Pittsburgh & West Virginia Railway Company, a consolidated corporation organized under the laws of Pennsylvania and West Virginia, dated December 29, 1967, and recorded October 3, 1968, in Deed Book 1997, Page 363, in the Westmoreland County Courthouse, c/o Wheeling & Lake Erie Railway Company (sublessee) by sublease agreement of Norfolk and Western Railway Company, a Virginia corporation, dated May 17, 1990, and recorded May 21, 1990, in Deed Book 2947, Page 361, in the Westmoreland County Courthouse

3. That in accordance with the provision of Section 2702 of the Public Utility Code, 66 Pa. CS. §2702, the following described properties be and are hereby taken and appropriated temporarily, for the use during the construction period only, in accordance with the right-of-way plans approved in Paragraph No. 1 of this order, and that Paragraph No. 3 of this order and the plans approved in Paragraph No. 1 of this order shall be recorded by the Recorder of Deeds of Westmoreland County, and shall be indexed under the name or names of the record owners of said property, grantor(s), and to the Commonwealth of Pennsylvania Department of Transportation, grantee, at the sole cost and expense of the Department of Transportation of the Commonwealth of Pennsylvania, applicant herein.

PITTSBURGH & WEST VIRGINIA RAILROAD
AN UNINCORPORATED BUSINESS TRUST ORGANIZED IN PENNSYLVANIA

C/O POWER REIT
301 WINDING ROAD
OLD BETHPAGE, NY 11804-1322

C/O WHEELING & LAKE ERIE RAILWAY COMPANY
(SUBLESSEE AND OPERATOR)
100 EAST FIRST STREET
BREWSTER, OHIO 44613

ALL THOSE CERTAIN TRACTS of land located in Rostraver Township,
Westmoreland County, Commonwealth of Pennsylvania, being bound and described as follows:

Tract No. 6
(Temporary Construction Easement)

Beginning at a point of intersection with northerly Legal Right-of-Way Line for Ridge Road and the Temporary Construction Easement, said point being approximately 107 feet radially right of the W&LE Railroad Survey and Right-of-Way centerline, station 5027+20, thence continuing along the Temporary Construction Easement N 02° 03' 25" W, 27.75 feet to a point, said point being 79.00 feet radially right of the W&LE Railroad Survey and Right-of-Way centerline, station 5027+20, thence continuing

along said Temporary Construction Easement N 86° 29' 17" W, 126.48 feet to a point, said point being 72.00 feet radially right of the W&LE Railroad Survey and Right-of-Way centerline, station 5026+00, thence continuing along said Temporary Construction Easement N 79° 26' 09" W, 209.37 feet to a point, said point being 58.00 feet radially right of the W&LE Railroad Survey and Right-of-Way centerline, station 5024+00, thence continuing along said Temporary Construction Easement N 71° 40' 46" W, 207.43 feet to a point, said point being 45.00 feet radially right of the W&LE Railroad Survey and Right-of-Way centerline, station 5022+00, thence continuing along said Temporary Construction Easement N 64° 15' 23" W, 168.79 feet to a point, said point being 34.00 feet radially right of the W&LE Railroad Survey and Right-of-Way centerline, station 5020+36, thence continuing along said Temporary Construction Easement N 60° 41' 14" W, 338.21 feet to a point, said point being 29.00 feet right of and opposite W&LE Railroad Survey and Right-of-Way centerline, station 5017+00, thence continuing along said Temporary Construction Easement N 29° 08' 46" E, 58.00 feet to a point, said point being 29.00 feet left of and opposite W&LE Railroad Survey and Right-of-Way centerline, station 5017+00, thence continuing along said Temporary Construction Easement S 61° 18' 02" E, 100.00 feet to a point on the property line of Pittsburgh & West Virginia Railroad, said point being approximately 30 feet left of and opposite W&LE Railroad Survey and Right-of-Way centerline, station 5018+00, thence continuing along said property line S 60° 49' 01" E, 237.78 feet to a point, thence continuing along said property line a curve to the left, having a radius of 1,402.69 feet, a delta of 08° 13' 20", a chord bearing of S 64° 55' 41" E, a chord distance of 201.12 feet and an arc length of 201.29 feet to a point, thence continuing along said property line N 29° 08' 20" E, 37.40 feet to a point on the Temporary Construction Easement, said point being 48.00 feet radially left of the W&LE Railroad Survey and Right-of-Way centerline, approximate station 5022+51, thence continuing along said Temporary Construction Easement N 76° 08' 19" E, 242.26 feet to a point, said point being 154.00 feet radially left of the W&LE Railroad Survey and Right-of-Way centerline, station 5024+86, thence continuing along said Temporary Construction Easement S 69° 55' 28" E, 187.31 feet to a point, said point being 100.00 feet radially left of the W&LE Railroad Survey and Right-of-Way centerline, station 5026+83, thence continuing along said Temporary Construction Easement N 65° 17' 03" E, 122.32 feet to a point on the property line of Pittsburgh & West Virginia Railroad, said point being approximately 145 feet radially left of the W&LE Railroad Survey and Right-of-Way centerline, approximate station 5028+06, thence continuing along said property line S 01° 37' 25" E, 77.93 feet to a point, thence continuing along said property line N 69° 22' 35" E, 21.84 feet to a point on the Required Drainage Easement, said point being approximately 73 feet radially left of the W&LE Railroad Survey and Right-of-Way centerline, approximate station 5028+23, thence continuing along said Required Drainage Easement S 03° 14' 11" E, 10.28

feet to a point, said point being approximately 63 feet radially left of the W&LE Railroad Survey and Right-of-Way centerline, approximate station 5028+23, thence continuing along said Required Drainage Easement N 84° 59' 34" E, 310.54 feet to a point on the Legal Right-of-Way of State Route 0051, said point being approximately 60 feet left of and opposite State Route 0051 Survey and Right-of-Way baseline, station 783+69, thence continuing along said Legal Right-of-Way Line S 23° 47' 32" E, 70.68 feet to a point on the Required Right-of-Way of State Route 0051, said point being 60.00 feet left of and opposite State Route 0051 Survey and Right-of-Way baseline, approximate station 782+98, thence continuing along said Required Right-of-Way Line S 23° 47' 32" E, 61.44 feet to a point on the Legal Right-of-Way of State Route 0051, said point being 60.00 feet left of and opposite State Route 0051 Survey and Right-of-Way baseline, approximate station 782+37, thence continuing along said Legal Right-of-Way Line S 23° 47' 32" E, 26.89 feet to a point on the Required Right-of-Way of State Route 0051, said point being approximately 60 feet left of and opposite State Route 0051 Survey and Right-of-Way baseline, station 782+10, thence continuing along said Required Right-of-Way Line S 66° 12' 28" W, 87.88 feet to a point on the Legal Right-of-Way Line for of former Ridge Road, said point being approximately 148 feet left of and opposite State Route 0051 Survey and Right-of-Way baseline, station 782+10, thence continuing along said Legal Right-of-Way Line of former Ridge Road S 80° 49' 58" W, 71.38 feet to a point on the Legal Right-of-Way of Ridge Road, thence continuing along said Legal Right-of-Way Line a curve to the right, having a radius of 1,129.80 feet, a delta of 00° 44' 37", a chord bearing of S 81° 12' 16" W, a chord distance of 14.66 feet and an arc length of 14.66 feet to a point, thence continuing along said Legal Right-of-Way Line A curve to the left, having a radius of 144.50 feet, a delta of 12° 02' 59", a chord bearing of S 87° 06' 02" W, a chord distance of 30.33 feet and an arc length of 30.39 feet to a point, thence continuing along said Legal Right-of-Way Line S 81° 04' 33" W, 32.30 feet to a point, thence continuing along said Legal Right-of-Way Line S 08° 55' 27" E, 0.89 feet to a point, thence continuing along said Legal Right-of-Way Line S 85° 04' 48" W, 20.17 feet to a point, thence continuing along said Legal Right-of-Way Line a curve to the right, having a radius of 1,266.79 feet, a delta of 09° 53' 41", a chord bearing of N 89° 58' 22" W, a chord distance of 218.50 feet and an arc length of 218.77 feet to a point, the point of beginning.

Containing 4.565 acres (198,870.606 sq ft.).

Tract No. 7

(Temporary Construction Easement)

Beginning at a point of intersection with westerly Legal Right-of-Way Line for State Route 0051 and the Temporary Construction Easement, said point being 145.00 feet left of and opposite W&LE Railroad Survey and Right-of-Way centerline, approximate station 5031+06, thence continuing along the Legal Right-of-Way Line S 23° 47' 32" E, 57.22 feet to a point on the Required Drainage Easement, said point being approximately 60 feet left of and opposite State Route 0051 Survey and Right-of-Way baseline, station 784+05, thence continuing along said Required Drainage Easement S 85° 08' 34" W, 211.48 feet to a point on the property line of Pittsburgh & West Virginia Railroad, said point being 96.00 feet left of and opposite W&LE Railroad Survey and Right-of-Way centerline, approximate station 5029+12, thence continuing along said property line N 69° 22' 35" E, 64.36 feet to a point on the Temporary Construction Easement, said point being approximately 112 feet left of and opposite W&LE Railroad Survey and Right-of-Way centerline, approximate station 5029+74, thence continuing along said Temporary Construction Easement N 69° 30' 59" E, 136.01 feet to a point, the point of beginning.

Containing 0.132 acres (5,733.663 sq ft.).

Tract No. 8

(Temporary Construction Easement)

Beginning at a point on the Required Right-of-Way Line for State Route 0051 and the Temporary Construction Easement, said point being 60 feet right of and opposite State Route 0051 Survey and Right-of-Way baseline, approximate station 782+72, thence along said Temporary Construction Easement N 78° 36' 59" E, 416.87 feet to a point on the Required Drainage Easement, said point being approximately 29 feet radially left of the W&LE Survey and Right-of-Way centerline, station 5036+95, thence continuing along said Temporary Construction Easement N 78° 38' 54" E, 304.38 feet to a point, said point being 30 feet left of and opposite W&LE Survey and Right-of-Way centerline, station 5040+00, thence continuing along said Temporary Construction Easement S 11° 22' 23" E, 59.00 feet to a point, said point being 29 feet right of and opposite feet left of and opposite the W&LE Survey and Right-of-Way centerline, station 5040+00, thence continuing along said Temporary Construction Easement S 78° 32' 42" W, 667.09 feet to a point, said point being approximately 56 feet right of and opposite W&LE Survey and Right-of-Way centerline, approximate station 5033+37, thence continuing along said Temporary Construction Easement S 78° 36' 59" W, 40.96 feet to a point on the Required Right-of-Way line for State Route 0051, said point being 60 feet

right of and opposite State Route 0051 Survey and Right-of-Way baseline, approximate station 782+10, thence along said Required Right-of-Way line N 23° 47' 32" W, 61.44 feet to a point, the point of beginning.

Containing 0.977 acres (42,576.187 sq ft.).

The above three tracts of land shown on Commonwealth of Pennsylvania Department of Transportation Drawings Re-Establishing Limited Access Highway and Authorizing Acquisition of Right-of-Way for State Route 0070, Section E10 R/W in Westmoreland County, as Temporary Construction Easement designated and delineated as part of parcel 130 on sheets 222-223 of 224 of said drawings, is a portion of real estate which became legally vested in Pittsburgh & West Virginia Railroad, an unincorporated business trust organized in Pennsylvania, by deed of The Pittsburgh & West Virginia Railway Company, a consolidated corporation organized under the laws of Pennsylvania and West Virginia, dated December 29, 1967, and recorded October 3, 1968, in Deed Book 1997, Page 363, in the Westmoreland County Courthouse, c/o Wheeling & Lake Erie Railway Company (sublessee) by sublease agreement of Norfolk and Western Railway Company, a Virginia corporation, dated May 17, 1990, and recorded May 21, 1990, in Deed Book 2947, Page 361, in the Westmoreland County Courthouse.

4. That in all respects not inconsistent herewith, our Secretarial Letter dated July 24, 2019, shall remain in full force and effect.

BY THE COMMISSION,



Rosemary Chiavetta

Secretary



ORDER ADOPTED: August 26, 2021

ORDER ENTERED: August 26, 2021

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of Transportation : Docket No.: A-2019-3009782
of the Commonwealth of Pennsylvania :
for approval to alter the public below grade :
crossing by widening State Route 0051 which :
crosses under the track of Wheeling & Lake :
Erie Railway Company (DOT No. 472 722 J) :
In Rostraver Township, Westmoreland County, :
And the allocation of costs incident thereto : **Electronically Filed**

VERIFICATION

I, Mark J. Chappell, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Mark J. Chappell 2021.11.23
10:40:18 -05'00'

Mark J. Chappell, P.E.
Department of Transportation
Right of Way & Utilities Section

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of Transportation : Docket No.: A-2019-3009782
of the Commonwealth of Pennsylvania :
for approval to alter the public below grade :
crossing by widening State Route 0051 which :
crosses under the track of Wheeling & Lake :
Erie Railway Company (DOT No. 472 722 J) :
In Rostraver Township, Westmoreland County, :
And the allocation of costs incident thereto : **Electronically Filed**

CERTIFICATE OF SERVICE

I hereby certify that I have also served a true and correct copy of the Department's
Petition to Transfer Jurisdiction to Court of Common Pleas of Westmoreland County upon the
following named parties in the manner indicated:

VIA FIRST CLASS MAIL, POSTAGE PREPAID:

Ann Scott
Rostraver Township Sewage Authority
1744 Rostraver Road
Bell Vernon, PA 15012

Garrett Henry
Columbia Gas of PA, Inc.
1452 Gun Club Road
Uniontown, PA 15401

Brad Herrington, P.E.
West Penn Power Company
800 Cabin Hill Drive
Greensburg, PA 15672

Kasey O'Connor, VP of Engineering
Wheeling & Lake Erie Railway Company
100 East First Street
Brewster, OH 44613

Curt Fontaine, P.E.
SW Corner, US Route 30 West
South Greengate Road
P.O. Box 730
Greensburg, PA 15601

Kathleen Jones Goldman, Esq.
Buchanan, Ingersoll & Rooney, P.C.
501 Grant Street, Suite 200
Pittsburgh, PA 15219

Eric Teeter
Atlantic Broadband
320 Bailey Avenue
Uniontown, PA 15401

Pamela S. Beard, Secretary
Rostraver Township
201 Municipal Drive
Belle Vernon, PA 15012

Vera Spina
Westmoreland County Commissioners
101 Courthouse Square
2 North Main Street
Greensburg, PA 15601

Respectfully submitted,

Date: November 23, 2021

/s/ Marla Venable
Marla Venable, Legal Assistant to:
Anthony Czuchnicki, Assistant Counsel
Commonwealth of Pennsylvania
Department of Transportation
P.O. Box 8212
Harrisburg, PA 17105-8212
Telephone No. (717) 787-3128