



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

April 7, 2022

Via E-File

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street 2nd FL
Harrisburg, PA 17120

RE: **A-2020-3020667**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Department's "Exceptions of the Commonwealth of Pennsylvania, Department of Transportation to the Recommended Decision of Administrative Law Judge Issued March 17, 2022 and Served March 18, 2022" 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.

Respectfully,

A handwritten signature in blue ink, appearing to read "Eric W. White".

Eric W. White
Assistant Counsel

cc: Parties of Record
Commission's Office of Special Assistants (OSA) at ra-OSA@pa.gov
Mark Chappell, P.E., Chief, Highway Delivery Division (Email)
Gregory J. Vaughn, Grade Crossing Engineer, Central Office, KCB 7th Floor (Email)
Philip Mutunga, P.E., District Grade Crossing Engineer, District 11 (Email)

**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. : A-2020-3020667
(DOT 584 825 U), Norfolk Southern Railway :
Company (DOT 507 455 K), and the Pittsburgh and :
Ohio Central Railroad Company (DOT Unknown) : **Electronically Filed**
in the City of Pittsburgh, Stowe Township and :
McKees Rocks Borough, Allegheny County. :
:

**EXCEPTIONS OF THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT
OF TRANSPORTATION TO THE RECOMMENDED DECISION
OF ADMINISTRATIVE LAW JUDGE ISSUED MARCH 17, 2022 AND SERVED
MARCH 18, 2022**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation (“Department”), by and through its counsel, Eric W. White, and offers the following Exceptions to the Recommended Decision issued by Administrative Law Judge Conrad A. Johnson (“ALJ”) on March 17, 2022 and served March 18, 2022:

1. The Department files the instant exceptions pursuant to 52 Pa. Code § 5.533.

Exceptions to Findings of Fact

2. The Department excepts the Finding of Facts Paragraph 24 (Recommended Decision (“RD”) Pg. 10), which states “The record is silent as to which party currently provides snow, ice and debris removal from the McKees Rock Bridge. Tr. 96.” While it is true that the party providing such removal is not specifically noted, the record does state which party is currently responsible. Specifically, Michael Adams, District 11 Maintenance engineer, with the Department stated that the Department did not perform those operations prior to 2020 (the year the instant application was filed) and further noted that such maintenance

would have been the responsibility of the municipality. **Tr. 78:5-10.** Mr. Adams then further noted “PennDOT has never maintained debris, snow and ice removal on the McKees Rocks Bridge sidewalks.” **Tr. 81:23-25.**

3. The Department excepts the Finding of Facts Paragraph 35 (**RD Pg. 11**), which states “Traffic signs and signal signage for the McKees Rocks Bridge are required by the federal Manual on Uniform Traffic Control Devices (MUTCD) based upon the design of the bridge. Tr. 75.” The Department believes this mischaracterizes the full testimony. Specifically, Michael Adams stated “Per those standards, any signage that would be required would be required to be installed.” **Tr. 75:13-14.** Further stating on cross examination regarding whether traffic signal and signage would be required “If they are required per the design, then they would not be optional.” **Tr. 75:25 – 76:1.** The record, however, is silent as to what, if any, signage is required per the design or whether any design features relate to the requirements of the MUTCD and therefore the Department excepts this Finding of Fact.
4. The Department excepts the Finding of Facts Paragraph 37 (**RD Pg. 11**), which states “The highway lighting of the McKees Rocks Bridge is a safety feature that benefits the general public. Tr. 101-102.” While Daniel Helfrich with I&E did indicate this is a safety feature that benefits the traveling public, on cross examination Mr. Helfrich indicated “I don’t know if it’s a primary safety feature ...” while referring to the highway lighting. **Tr. 123:24-25.** The Department, however, submitted testimony through cross examination indicating this lighting would be optional. **Tr. 74:25 – 75:1.** The optional nature of the lighting lends further support to it not being a primary safety feature for the traveling public and therefore the Department excepts this finding and suggests the finding be modified to

state:

“The highway lighting of the McKees Rocks Bridge is *an optional* safety feature that benefits the general public. **Tr. 74:25-75:1**; Tr. 101-102.”
(modifications in bold).

5. The Department excepts the Finding of Facts Paragraph 38 (**RD Pg. 12**), which states “The sidewalks of the McKees Rocks Bridge are available for use by any pedestrian traversing the bridge. Tr. 69, 102-103.” The Department believes this mischaracterizes the full testimony. First, **Tr. 69** is an exchange between prior Department counsel and the ALJ and therefore should not be deemed competent evidence. Further, the witness testimony referenced at **Tr. 102-103** is that of Daniel Helfrich, presented as an expert by I&E, and is in response to a question from the ALJ regarding “[a]nyone in the State of Pennsylvania” being able to travel over this bridge.” **Tr. 102:24-24**. Mr. Helfrich’s response does agree that anyone could travel on the bridge, but he specifically states “[t]hey could walk over this bridge, correct, or travel over it by vehicle. But I believe that most of the foot traffic would be by local residents.” **Tr. 103:2-5**. As such, the Department suggests this finding be modified to the more accurate factual finding:

“The sidewalks of the McKees Rocks Bridge are available for use by any pedestrian traversing the bridge, but most pedestrian traffic is by local residents.”

6. The Department excepts the Finding of Facts Paragraph 41 (**RD Pg. 12**), which states “PennDOT as a public entity and owner of the McKees Rocks Bridge is required to maintain the bridge in a condition accessible to pedestrians. Tr. 108; I&E St. 1 at 4-5; 28 U.S. Code § 35.133.” The Department believes this is a mischaracterization and miscite of

the record. First, the cited portion of the Transcript, Tr. 108, is primarily a statement of the ALJ and therefore should not be deemed to be competent evidence. The remaining portion of Tr. 108 is an answer from Daniel Helfrich with I&E, but also does not stand for the proposition stated in Paragraph 41 of the Finding of Facts. As a point of clarity, the portion of relevant testimony would be at Tr. 109. In the relevant portion therein, Mr. Helfrich does note that the Federal Money referenced at Tr. 108 has strings attached associated with snow, ice and debris removal from pedestrian facilities. **Tr. 109:1-5**. The ALJ then asks, “And under the Code, can any of the costs be assigned to PennDOT if they get funding from the Federal – Federal Fund?” **Tr. 109:6-8**. Mr. Helfrich does respond yes and then goes on to state “PennDOT has that initial responsibility, unless they can come into an agreement with the municipality to transfer that responsibility and obligation.” Upon further questioning by the ALJ of, “Then can – based upon this federal funding provision, are you saying that some of the costs of the ice and snow removal can be assigned to PennDOT or it’s only until – until some resolution is reached? Do you understand my question?” **Tr. 109:17-22**. The response from Mr. Helfrich was, “I – I do, Your Honor, and I’m not really sure what the answer to that would be.” **Tr. 109:23-25**. In essence, conceding he is not sure that is the specific requirement. Further, the portion of **I&E St. 1 at 4-5** elucidates this and provides a clearer statement. Specifically, Mr. Helfrich’s testimony of who should initially bear the responsibility states “Based on the significant federal funding for this project, initially PennDOT should bear that responsibility for snow, ice and debris removal from the sidewalks *until a final resolution is reached among the parties or a Commission order* directs future maintenance for snow, ice, and debris removal from the sidewalks on the McKees Rocks Bridge.” **I&E St. 1 at 5:7-11** (emphasis added). In short,

the testimony read as a whole is best understood as stating the Department is required to maintain such pedestrian access until such time as it is otherwise assigned or agreed. Further, Mr. Helfrich later elaborated that a party being assigned a cost initially does not mean they will also receive the final assignment. **Tr. 111:21-112:9**. Finally, the legal cite appears to be incorrect. The portions of the record discussing this issue cite to 28 C.F.R. § 35.133 and as such that is likely the proper cite as opposed to “28 U.S. Code § 35.133”. As an additional exception, the Department notes that the reliance on this in this Finding of Fact ultimately requires a conclusion of law regarding what party would be responsible for compliance with 28 C.R.F. § 35.133 as discussed more fully below in the Department’s exception to the Recommended Order Paragraph 2.

7. The Department excepts the Finding of Facts Paragraph 42 (**RD Pg. 12**), which states, “The McKees Rocks Bridge spans the boundaries of the City, Borough, and Township, however, the record is silent as to the exact lengths of the bridge’s sidewalks that are within the respective boundaries of the three municipalities. Tr. 105.” While that is an accurate statement standing alone, the Department believes it requires clarification for accuracy. Specifically, Daniel Helfrich for I&E testified to the approximate lengths stating, “I would say approximately 30 to 35 percent would be in McKees Rocks, 15 percent would be in Stowe Township and the remainder would be in the City of Pittsburgh.” **Tr. 120:15-18**. Further, the Department notes that the three municipalities presented no witnesses or testimony and as noted by Attorney Rost for I&E, while not competent evidence, that information is typically received from the municipalities. **Tr. 106:9:14**.

Exceptions to Conclusions of Law

8. The Department excepts the Conclusion of Law Paragraph 2 (**RD Pg. 28**), which states

“The Pennsylvania Department of Transportation as the proponent of a rule or order has the burden of proof. 66 Pa. C.S. § 332(a).” While the Department agrees it does have the burden of proof, it believes clarification is required given the discussion of same in the Recommended Decision. (**RD Pg. 15**). As noted in *Morrissey v. Pa. Dept’ of Highways*, “‘burden of proof’ and the ‘weight of the evidence’ are not one and the same; the former remains on the party upon whom is imposed the duty of producing a certain amount of evidence in order that he may not lose summarily while the latter involves the credibility or persuasive quality of the evidence produced and, during a trial, may shift from side to side as the trial proceeds.” 225 A.2d 895, 898 (Pa. 1967). In essence, the Department believes it has the burden of proof, but notes that it is not a question of burden shifting as could be inferred from the discussion related to same. As such, the Department requests the additional clarification be noted and potentially added to the Conclusions of Law:

“A preponderance of the evidence means only that one party has presented evidence that is more convincing, by even the smallest amount, than the evidence presented by the other party.” *Energy Conservation Council of Pennsylvania v. Pa. P.U.C.*, 995 A.2d 465, 478 (Pa. Commw. 2010).”

Exceptions to the Recommended Order

9. The Department excepts the Recommended Order Paragraph 1, and related justification, in part (**RD Pg. 29-30**). Specifically, the Department excepts only the assignment as it relates to the roadway lighting maintenance and energization costs. As noted throughout these proceedings, the January 20, 1975 Order in Docket No. C-18734 did assign maintenance cost of the roadway lighting to PennDOT. *See PennDOT Exhibit 2, January 20, 1975 Order, Pg. 6, ¶ 6*. That Order, however, was silent as to the cost of energization. *See*

generally PennDOT Exhibit 2, January 20, 1975 Order; PennDOT St. 3, Pg. 3:15-16.

Although the Department owns the bridge, the lighting system covers the entire span of the bridge and the electric service that provides the energy to the system, which is a major component, originates in McKees Rock Borough. **PennDOT St. 3, Pg. 6:7-9.** In addition, the Department does not typically engage in maintenance or energization of lighting systems on bridges as it is contrary to the Department's policy found in PennDOT Design Manual Publication 10C (DM-1C) 2015 Edition, Change #4. **PennDOT Statement No. 3, Pg. 3-4; PennDOT Exhibit 5; Tr. 62:19 – 63:3.** Further, City of Pittsburgh, Stowe Township, and McKees Rock borough did not submit *any* evidence or testimony to refute or challenge the evidence of the Department. While Daniel Helfrich with I&E did indicate this is a safety feature that benefits the traveling public, on cross examination Mr. Helfrich indicated "I don't know if it's a primary safety feature ..." while referring to the highway lighting. **Tr. 123:24-25.** The Department, however, submitted testimony through cross examination indicating this lighting would be optional. **Tr. 74:25 – 75:1.** The optional nature of the lighting lends further support to it not being a primary safety feature for the traveling public and therefore should weight against assignment being to the Department as the primary maintainer of the bridge as suggested. **Tr. 101:18 – 102:1.** As such, the Department submits it has met its burden of proof by providing credible evidence as to why these costs should be shifted to the local municipalities and as such requests an Order assigning same.

10. The Department excepts the Recommended Order Paragraph 2, and related justification. **(RD Pg. 30 ¶ 2).** As an initial matter, the McKees Rocks Bridge is an Act 615 bridge as it was transferred from Allegheny County to the Department under Act 615. **Department**

Exhibit 2 – PUC Order Dated October 29, 1969, Pg. 3:4-8; See also 36 P.S. § 1758-101. On Act 615 bridges such as this, the Department does not perform winter maintenance on the sidewalks. **PennDOT St. 1, Pg. 5:4-8; PennDOT Exhibit 4** (PennDOT Publication 23 – Maintenance Manual, Ch. 7). This position, however, is not based solely on Department policy or publications. First, the municipalities are in the best position to perform such maintenance as requiring the Department to do so would divert attention from the duty of clearing the roadways during a snow event and it is further of the greatest benefit to the local residents. **PennDOT St. 6, Pg. 1:21-2:2; PennDOT St. 5, Pg. 4:20; I&E St. 1, Pg. 5:14-20.** Further, Act 615 specifically states, within the section discussing “Rights, obligations, liabilities, duties of state, counties, cities” that the Act:

shall not be construed: ... [t]o place upon the Commonwealth any obligation for maintenance, construction, reconstruction or resurfacing of any highway other than the base or surface courses. ***The maintenance authorized by this article shall not include snow removal***, street cleaning or maintenance or replacement of guide rail or drainage facilities ***and shall be limited to the portions available to vehicular traffic*** regardless of whether there are existing curbs.

36 P.S. § 1758-103 (emphasis added). Within the Discussion included with the Recommended Decision, *Pennsylvania Dep’t of Transp. v. Pa. Pub. Util. Comm’n*, 346 A.2d 371 (Pa Commw. 1977) is cited as addressing the argument regarding this section and thus the argument regarding the Department’s lack of obligation regarding snow removal from sidewalks. The Department believes; however, this is a misreading of the cited case which requires further discussion. The maintenance referenced in that case is on a bridge and its approaches, not snow removal from sidewalks. *Id.* at 373. Further, the case specifically refers to the proceeding prior to remand for further facts. *Id.* That prior proceeding more fully explains the assignment by the Commission that the Department

was challenging which was the Order “to effect repair and restoration of the bridge structure carrying State Highway Route 736.” *Commonwealth, Dep't of Transp. v. Commonwealth, Pub. Util. Com.*, 335 A.2d 539, 540 (Pa. Commw. 1975). In addition, it required the Department to “furnish all material and do all work necessary thereafter to maintain the remainder of the crossing, including the substructure and superstructure of the bridge carrying State Highway Route 736.” *Id.* In short, the case was addressing actual restoration of the bridge and future continued repair and maintenance of the substructure and superstructure of the bridge and not maintenance of the sidewalk snow removal. That fact is important to the distinction the Court makes regarding 36 P.S. § 1758-103 and for which the RD discussion cites. (**RD Pg. 25**). The thrust is therefore very different for the specific quote of “[t]he provision relied on by the Commonwealth in our view obviously refers to the Commonwealth's obligation with respect to the maintenance of highways, not bridges.” *Pennsylvania Dep't of Transp. v. Pa. Pub. Util. Comm'n*, 346 A.2d 371, 374 (Pa. Commw. 1977). Specifically, the Court found that the section was referencing to highways and not bridges in the context of the substructure and superstructure of the physical bridge – that is, the Department has an obligation to maintain those structures. As amply noted within these proceedings, the Department does believe it has responsibility for the substructure and superstructure and as such it made the instant Application to the Commission for the subject project to make repairs to same. *See also PennDOT St. 2 Pg. 3 and PennDOT St. 5 Pg. 2*. The ultimate decision of the cited case, however, does not stand for the proposition that the plain text of 36 P.S. § 1758-103 should be disregarded. The rules of statutory construction require just the opposite. As our Supreme Court has noted:

When engaging in statutory construction, a court's duty is to give effect to the legislature's intent and to give effect to all of a statute's provisions. 1 Pa.C.S. § 1921(a). The best indication of legislative intent is the plain language of the statute. *Matter of Private Sale of Prop. by Millcreek Twp. Sch. Dist.*, 646 Pa. 339, 185 A.3d 282, 290-91 (Pa. 2018). In ascertaining the plain meaning, we consider the statutory language in context and give words and phrases their "common and approved usage." *Commonwealth by Shapiro v. Golden Gate Nat'l Senior Care LLC*, 194 A.3d 1010, 1027 (Pa. 2018). ***When statutory language is clear and unambiguous, courts must give effect to the words of the statute and must not disregard the text to implement its objective.*** *Id.*; 1 Pa.C.S. § 1921(b). "Only if the statute is ambiguous, and not explicit, do we resort to other means of discerning legislative intent." *Millcreek Twp. Sch. Dist.*, 185 A.3d at 291; 1 Pa.C.S. § 1921(c). When a statute is ambiguous, a court may ascertain the intention of the legislature by looking at, among other things, administrative interpretations of the statute. 1 Pa.C.S. § 1921(c)(8).

Crown Castle NG E. LLC v. Pa. PUC, 234 A.3d 665, 674 (Pa. 2020) (emphasis added).

As such, the Department believes the plain language of the cited statute supports the position it has stated regarding in its policies and has further cited in its Publications that the Department is not responsible for snow removal from sidewalks on Act 615 bridges such as the McKees Rocks Bridge. *See PennDOT Exhibit 4* (PennDOT Publication 23 – Maintenance Manual, Ch. 7). Further, the Discussion related to this matter cites 23 U.S. Code § 116(b) for further support that such responsibility should be on the Department citing “It shall be the duty of the State transportation department or other direct receipt to maintain, or cause to be maintained, any project constructed under the provisions of this chapter [23 USC §§ 101 et seq.] or constructed under the provisions of prior Acts.” (**RD Pg. 25**) (citing 23 U.S. Code § 116(b) (modifications in original cite). This singular cite, however, does not account for the defined term contained therein. In the relevant section, “[t]he term “maintenance” means the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for safe and efficient utilization of the highway.” 23 U.S.C. § 101(a)(14). The

Department submits it is undertaking the required maintenance as defined currently which does not include snow, ice and debris removal from sidewalks. As noted above, the Department is not obligated and has never taken on this responsibility of snow removal due to the dictates of Act 615 and notes such sidewalk maintenance is not required by 23 U.S. Code § 116(b). Further, the Department does not believe that 23 U.S. Code § 116(b) in concert with 28 C.F.R. 35.133(a) stand for the proposition that the Department must engage in such snow removal for reasons related to the ADA. Daniel Helfrich with I&E brought up that theory during testimony, but conceded that he was not aware of any such situation where the above-referenced sections have been used to obligate the Department to maintain sidewalks. **Tr. 126:14.** As noted within the Department's Main Brief, "public entities" can apply to the municipalities as equally as the Department. See 28 C.F.R. § 35.104. The Department believes this point is of importance given the lack of current assignment of snow, ice and debris removal from the sidewalks. It is not simply a matter of ownership, but of responsibility for the work of snow, ice and debris removal from the sidewalks. Ownership alone does not determine who would be responsible for a particular responsibility of future maintenance, but is often considered as part of a benefits analysis. *Compare Dep't of Transp.*, 464 A.2d 645 (Pa. Commw. 1983) (Commission may allocate costs onto the Department "regardless of whether the highway involved is a state highway, county road or township road") *with Dep't of Transp. v. Pa. P.U.C.*, 469 A.2d 1149 (Pa. Commw. 1983) (Commission may allocate cost for work done to a state route onto the local authorities based upon benefit to the latter). The Department submits that the party made responsible for such future maintenance, which will be a public entity given the parties, will also then be responsible for compliance with the ADA and related regulations

cited. As amply noted throughout the proceeding, such assignment has not yet occurred and the Department has never taken on such responsibly given the dictates of Act 615 and as such the Department excepts the Recommended Order Paragraph 2 and recommends assignments to the local municipalities as the greatest benefactors of said sidewalks and as being in the best position to take on such work.

11. The Department excepts the Recommended Order Paragraph 3, and its related justification.

(RD Pg. 30 ¶ 3). As an initial matter, the Department notes that the determination of maintenance of signals, signage, and signal energization was not raised as an issue for this proceeding beyond being referred as “ancillary features.” The Department has current responsibilities for the ancillary features of the structural integrity of stairways and stairway railing, the structural integrity of the bridge ramps leading to the surface streets along with longitudinal white and yellow pavement markings. **PennDOT St. 5, Pg. 5:19-**

22. The responsibility of the municipalities for traffic signals and signage, however, are clearly addressed in Department regulations regarding such features. *See* 67 Pa. Code § 212.5. As stated within that regulation, “[t]he delegation of responsibilities for the installation and maintenance of traffic-control devices is in accordance with 75 Pa.C.S. §§ 6122 and 6124 (relating to authority to erect traffic-control devices; and erection of traffic-control devices at intersections).” 67 Pa. Code § 212.5(a). The regulation requires “Cities of the first and second class are responsible for the installation, revision, removal, maintenance and operation of all traffic-control devices on the highways within their city boundaries. 67 Pa. Code § 212.5(b)(1)(ii). Further, it dictates “Local authorities other than cities of the first and second class shall obtain written Department approval before installing any new, or revising or removing any existing traffic-control device unless noted

otherwise in this chapter or as provided in an agreement with the Department.” 67 Pa. Code § 212.5(b)(1)(iii). More specifically stating, “Local authorities, or other agencies as indicated, are responsible for installing, maintaining and operating the following traffic-control devices, subject to Department approval prior to any change in the traffic restriction” which list specifically includes “Traffic signals, and all associated signs and markings included on the Department-approved traffic signal plan.” 67 Pa. Code § 212.5(b)(1)(v)(A). In short, the local jurisdictions are responsible for maintenance of traffic control devices under the applicable regulations and explicitly responsible for traffic signals which are recommended assigned to the Department within the Recommended Order Paragraph 3. As testified to, “[t]he municipalities should be responsible for the signage associated with signals because the municipalities are responsible for ownership and maintenance of traffic signals. Signal signage would include all traffic signs relating to the traffic signals and lanes (i.e. lane designation signage, signals ahead signage, etc.). The supports that hold up all the signal signage would also be the municipalities’ responsibility.” **PennDOT St. 5, Pg. 2:22-3:4**. Of additional note, the traffic signals associated with the McKees Rocks Bridge are beyond Station 2 + 00 and Station 58 + 00 as shown on the Plans submitted as Exhibit “B” with the Department’s application in this matter. This is the tentative jurisdiction taken by the Commission in its Secretarial Letter assigning the ALJ on March 10, 2021. Specifically stating, “[t]he Commission has tentatively established jurisdiction over those portions of the project between survey baseline station 2+00 to 58+00 as shown on the preliminary plans accompanying the application.” The Department submits there has been no reason given to extend that jurisdiction and submits the traffic signals are outside of same. Even assuming, however,

the Commission does exercise jurisdiction, the undisputed testimony provided by the Department states that the municipalities are the owners of such items and in concert with the applicable regulations evidences a responsibility of the municipalities for continuing maintenance of such items. As such, the Department submits that those items are not being requested to be transferred, but instead the Department is requesting those matters remain at status quo, that is, still under ownership and maintenance by the municipalities and as such it has met its burden in maintaining same given the unrebutted credible testimony and applicable regulations cited herein. As such, the Department excepts this recommended Order and request such assignments remain with the local municipalities if deemed necessary for assignment.

WHEREFORE, the Department of Transportation respectfully requests the Public Utility Commission consider its exceptions to the Recommended Decision of Administrative Law Judge Conrad A. Johnson and enter an Order accordingly.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



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DATED: 4/07/2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of PENNDOT for approval to : Docket No. A-2020-3020667
install new protective fence on the structure :
where State Route 3194 crosses the tracks of : Electronically Filed
CSX Transportation Inc (DOT # 584 825 U), :
Norfolk Southern Railway Company (DOT # :
507 455 K), and the Pittsburgh and Ohio :
Central Railroad Company 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 document, upon the parties listed below, in accordance with the requirements of 52 Pa.Code § 1.54 (relating to service by a party):

USPS Postage Prepaid and by Email if listed

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Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



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DATED: April 7, 2022