



CITY OF PHILADELPHIA

August 16, 2022

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

RE: C-2022-3033708

Dear Secretary Chiavetta,

Enclosed for filing please find the City of Philadelphia's written Answer to New Matter of CSX Transportation, Inc. in the above-captioned matter. The parties to the proceeding have been served in accordance with the Certificate of Service attached below.

Very truly yours,

James C. Kellett

James C. Kellett, Esq.

Deputy City Solicitor

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

City of Philadelphia,	:	
Complainant	:	Docket No. C-2022-3033708
	:	
	:	Electronically Filed
v.	:	
	:	
CSX Transportation, Inc.,	:	
Respondent	:	
	:	

**ANSWER OF CITY OF PHILADELPHIA TO NEW MATTER OF CSX
TRANSPORTATION, INC.**

41. The City’s Complaint in paragraphs 1 through 40 are incorporated herein by reference as if stated in full.

42. Denied. After reasonable investigation, the City is without knowledge or information sufficient to form a belief as to the truth of this claim.

43. Denied as stated. CSXT and the City jointly announced a project to refurbish the Viaduct. The City additionally denies the characterization of the needed repairs as limited to outer surfaces or caused simply by “the weather.”

44. Admitted in part; denied in part. It is admitted that the project was intended to occur in four phases and generally as described in CSXT’s outline. After reasonable investigation, the

City is without knowledge or information sufficient to form a belief as to the truth of claims regarding work actually performed.

45. Denied. It is specifically denied that a debris shield was installed that prevented spalled concrete from falling.

46. Admitted in part; denied in part. It is admitted that CSXT should coordinate with the City to repair the drainage system. It is specifically denied that the City refused to coordinate repairs to the Viaduct and, indeed, a significant number of laterals and catchbasins are clear and not an obstruction to CSXT's work.

47. Admitted.

48. Denied. It is specifically denied that repairs would be "useless." As proffered in the City's complaint and in Paragraph 46, *supra*, dozens of drains and catchbasins are clear and unobstructed. The City is, and has been, investigating whether others are indeed in need of repair and working to make those repairs. The drains, laterals, and catchbasins carry discharge from CSXT property and the City cannot control what enters them. It is illogical to wait until all of the 200 drains and catchbasins, along 1.2 miles, have been inspected before commencing work

49. Denied. After reasonable investigation, the City is without knowledge or information sufficient to form a belief as to the truth of this claim.

50. Admitted in part; denied in part. It is admitted that the inner two lanes of the cartway along 25th Street have been closed to vehicular traffic, and that the removed traffic lights were replaced with stop signs. The City denies the remaining averments in Paragraph 50, including that the installation of netting required removal of the traffic lights. Rather, the location and manner of installation of the netting caused that removal.

51. Denied. It is specifically denied that the City delayed CSXT's work.

52. Admitted in part; denied in part. It is admitted that streetlights were installed under the 1931 Agreement between the Pennsylvania Railroad Company and the Philadelphia Electric Company. It is specifically denied that the City would not cooperate in the potential relocation of any lights. After reasonable investigation, the City is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 52.

53. Denied as stated. The contention that the City "cannot locate" is a mischaracterization of their status. The removed lights are outdated High Pressure Sodium ("HPS") lights. Those have been recycled, and will be replaced with newer, more efficient Light Emitting Diode ("LED") streetlights. After reasonable investigation, the City is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 53.

54. Denied. After reasonable investigation, the City is without knowledge or information sufficient to form a belief as to the truth of this claim.

55. Denied. After reasonable investigation, the City is without knowledge or information sufficient to form a belief as to the truth of this claim.

56. Denied. After reasonable investigation, the City is without knowledge or information sufficient to form a belief as to the truth of this claim

WHEREFORE, the City respectfully demands that CSXT be ordered to:

Immediately comply with this Commission's 2005 Order;

Ensure that the Viaduct is structurally sound and prevented from further spillage of concrete or any other material that may fall from the Viaduct;

Immediately resume repair operations under the 2015 Project and continue until completed; and

Pursuant to the above, provide this Commission and the City with detailed plans for abatement and restoration, and obtain all necessary permits and approvals from the Commission, the City, and/or the Commonwealth as applicable.

Respectfully Submitted,

James C. Kellett

James C. Kellett, Esq.
Divisional Deputy City Solicitor
Regulatory Law Unit
1515 Arch Street, 16th Floor
Philadelphia, PA 19102
James.Kellett@phila.gov
P: 215-683-8452

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

City of Philadelphia,	:	
Complainant	:	Docket No. C-2022-3033708
	:	
v.	:	Electronically Filed
	:	
CSX Transportation, Inc.,	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served true and correct copies of the foregoing Answer to New Matter in accordance with Pennsylvania Utility Code regulation.

Service by Electronic Mail Only

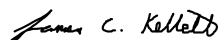
Benjamin C. Dunlap Jr., Esq.
Nauman Smith Shissler & Hall
200 N. Third Street, 18th Floor
P.O. Box 840
Harrisburg, PA 17108
bdunlapjr@nssh.com

Jillian G. Fellows, Esq.
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212
jfellows@pa.gov

Service by First Class United States Mail

Michael Hoey, P.E.
President
CSX Transportation, Inc.
4 Neshaminy Interplex, Suite 205
Trevose, PA 19053

Respectfully Submitted,



James C. Kellett
Divisional Deputy City Solicitor
City of Philadelphia Law Department
James.Kellett@phila.gov

DATED: August 16, 2022