



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

September 2, 2022

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

RE: Docket No. A-2020-3021129

Dear Secretary Chiavetta,

Enclosed for filing 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,

/s/ Anthony Czuchnicki

Anthony A. Czuchnicki
Assistant Counsel

Encls.

Cc: Parties of Record
Mark J. Chappell, P. E., Utilities and Right of Way Section
Cody Young, Right of Way Section
Jack Clark, Right of Way Section
Dustin Palmer, R/W Administrator, District 8-0
File

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of the Pennsylvania Department of :
Transportation for approval to alter the public :
crossing (DOT 592 186 Y) by replacement of the : Docket No.: A-2020-3021129
existing bridge where SR 3013 (29th Street) :
crosses, above grade, the tracks of Norfolk :
Southern Railway Company, located in Paxtang :
Borough and Swatara Township, Dauphin County : **Electronically Filed**

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

COMES NOW, the Commonwealth of Pennsylvania, Department of Transportation, by its attorney, Anthony A. Czuchnicki, Assistant Counsel, and in its Petition to Transfer Jurisdiction to the Court of Common Pleas of Dauphin 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 A. 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 June 16, 2022, in the proceeding docketed at Application Docket No. A-2020-3021129, your Honorable Commission approved the Application of the Pennsylvania Department of Transportation for approval to alter the public crossing (DOT 592 186 Y) by replacement of the existing bridge where SR 3013 (29th street) crosses, above grade, the tracks of Norfolk Southern Railway Company,

located in Paxtang Borough and Swatara Township, Dauphin County. (Exhibit “A”)

4. By the aforesaid Order, your Honorable Commission directed, at paragraphs 2 and 3, that certain property be appropriated 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 Paxtang Borough and Swatara Township, Dauphin County, filed with the Recorder of Deeds of Dauphin County on August 17, 2021, by Instrument No. 20210028753. (Department Claim No. 2200500000).

6. The Department has determined that the just compensation for the property appropriation is \$44,100 which, as of the date of this Petition, has not been accepted by the Railway. This amount reflects total estimated just compensation payable under this docketas well as under Docket No. A-2020-3021193.

7. The name and address of the Railway is:

Norfolk Southern Railway Company
650 West Peachtree St NW
Atlanta, GA 30308

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 Dauphin 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: September 2, 2022

1/1 Anthony Czuchnicki
Anthony A. Czuchnicki, Assistant Counsel- ID No. 312620
Commonwealth of Pennsylvania, Department of Transportation
Office of Chief Counsel

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17U0

EXEMPT FROM UPI
8/9/22 TW

Public Meeting held June 16, 2022

Commissioners Present:

Gladys Brown Dutrieuille, Chainnan
John F. Coleman, Jr., Vice Chairman
Ralph V, Yanora

Application of the Pennsylvania Department of Transportation for approval to alter the public crossing (DOT 592 186 Y) by replacement of the existing bridge where SR 30.13 (29th Street) crosses, above grade, the tracks of Norfolk Southern Railway Company, located in Paxtang Borough and Swatara Township, Dauphin County.

Docket No.
A-2020-3021129

ORDER

BY THE COMMISSION:

At a location in the City of Harrisburg, Paxtang Borough and Swatara Township, Dauphin County, State Route 3013 (29th Street) crosses, above grade, the tracks of Norfolk Southern Railway Company.

By Secretarial Letter dated October 23, 2020, the Commission approved the application to alter the public crossing (DOT 592 186 Y) by replacement of State Route SR 3013 (29th Street) bridge.

In conjunction with the subject bridge replacement project it will be necessary for the Commission to appropriate certain portions of railroad property to accommodate construction of the project.

"Exhibit A"

Paragraph No. 3 of the Commission's Secretarial Letter dated October 23, 2020, directed Pennsylvania Department of Transportation (Department) to submit for approval the final right-of-way plans for any railroad property for the Commission to appropriate.

The Department submitted final right-of-way plans to the Commission and all parties of record for review. The plans were received March 8, 2022, and consist of seven (7) sheets.

The Department is requesting the Commission approve the right-of-way plans that include the appropriation of six (6) tracts of railroad property from Norfolk Southern Railway Company.

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

The metes and bounds descriptions required for the property appropriations with color coded plan sheets associated with the said right-of-way plans were submitted to the Commission on March 8, 2022, 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 March 8, 2022, consisting of seven (7) sheets, and identified as "COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION, DRAWINGS REESTABLISHING LIMITED ACCESS HIGHWAY AND AUTHORIZING ACQUISITION FOR RIGHT-OF-WAY FOR STATE ROUTE 3013 SECTION 009 R/W IN DAUPHIN COUNTY," 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 properties be and are 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 shall be recorded in the Recorder of Deeds of Dauphin 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; the above said plans having been recorded in the Office for the Recording of Deeds of Dauphin County on August 17, 2021 by Instrument Number 20210028753, to which recording reference is made in and of the description of those tracts of land more particularly described in detail below:

NORFOLK SOUTHERN RAILWAY COMPANY
650 WEST PEACHTREE ST NW
ATLANTA, GA 30308

ALL THOSE CERTAIN TRACTS of land situated in the City of Harrisburg, Paxtang Borough and Swatara Township, Dauphin County, Commonwealth of Pennsylvania, being bound and described as follows:

Tract No. 1
(Aedal Easement)

Beginning at a point, (Point of Beginning), on the westerly legal right-of-way line for State Route 3013 (29th Street), said point being 28'± left and opposite of State Route 3013 (29th Street) right-of-way centerline station 39+73, (Coordinates Northing 338,361.1742, Easting 2,222,539.5961); Thence along Tract No. 3 (Temporary Construction Easement) and the westerly legal right-of-way line for State Route 3013 (29th Street) and crossing lands of Norfolk Southern Railway Company, S 08°48'34" E 84.94' to a point, said point being 27'± left and opposite of State Route 3013 (29th Street) right-of-way centerline station 38+88, (Coordinates Northing 338,277.2349, Easting 2,222,552.6046); Thence crossing lands of Norfolk Southern Railway Company, S 84°01'26" W 7.79' to a point, a common comer to Tract No. 4 (Temporary Construction Easement), said point being 35' left and opposite of State Route

3013 (29th Street) right-of-way centerline station 38+89, (Coordinates Northing 338,276.4238, Easting 2,222,544,8565); Thence along Tract No. 4 (Temporary Construction Easement), across lands of Norfolk Southern Railway Company and Tract No. 3 (Temporary Construction Easement), N 08°33'05" W 85.27' to a point a common corner to Tract No. 3 (Temporary Construction Easement), said point being 35'± left and opposite of State Route 3013 (29th Street) right-of-way centerline station 39+74, (Coordinates Northing 338,360.7406, Easting 2,222,532.1780); Thence along lands of Norfolk Southern Railway Company, by a curve to the right with a radius of 5762.65' and arc length of 7.43 (Chord N 86°39'15" E 7.43') to a point, the Point of Beginning.

Containing 0.015 Acres (646 Square Feet)

Tract No. 2
(Aerial Easement)

Beginning at a point, (Point of Beginning), on **the** easterly legal right-of-way line for State Route 3013 (29th Street), said point being 37'± right and opposite of State Route 3013 (29th Street) right-of-way centerline station 38+85, (Coordinates Northing 338,283.5471, Easting 2,222,616.3903); Thence continuing along the easterly legal right-of-way line for State Route 3013 (29th Street) and crossing lands of Norfolk Southern Railway Company, N 08°48'34" W 82.55' to a point, said point being 36'± right and opposite of State Route 3013 (29th Street) right-of-way centerline station 39+67, (Coordinates Northing 338,365.1245, Easting 2,222,603.7479); Thence crossing lands of Norfolk Southern Railway Company, N 59°54'01" E 1.69' to a point; a common corner to Tract No. 5 (Temporary Construction Easement), said point being 38' right and opposite of State Route 3013 (29th Street) right-of-way centerline station 39+68, (Coordinates Northing 338,365.9731, Easting 2,222,605,2118); Thence S 08°33'05" E 83.24' to a point, a common corner to Tract No. 6 (Temporary Construction Easement) and crossing lands of Norfolk Southern Railway Company, said point being 38' right and opposite of State Route 3013 (29th Street) right-of-way centerline station 38+85, (Coordinates Northing 338,283.6547, Easting 2,222,617.5898); Thence crossing lands of Norfolk Southern Railway Company, S 84°51'54" W 1.20' to a point, the Point of Beginning.

Containing 0.003 Acres (115 Square Feet)

The above two (2) tracts of land shown on the Pennsylvania Department of Transportation Drawings Authorizing Acquisition for Right-of-Way for State Route 3013 Section 009 R/W in Dauphin County, being designated and delineated as required aerial easement and being a portion of land of Norfolk Southern Railway Company, designated as part of parcel 162 on sheets 124 and 126 of 127 of said drawings, as recorded in the Office for the Recorder of Deeds, in Dauphin County, Pennsylvania, Instrument Number 20210028753 on August 17, 2021, and being a portion of land conveyed from Consolidated Rail Corporation to Pennsylvania Lines LLC c/o Norfolk Southern Railway Company by deed dated May 19, 1999 and recorded October 22, 1999, in Deed Book 3536, Page 10, in the Dauphin County Courthouse.

3. That in accordance with the provision of Section 2702 of the Public Utility Code, 66 Pa. C.S. §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 shall be recorded by the Recorder of Deeds of Dauphin 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; the above said plans having been recorded in the Office for the Recording of Deeds of Dauphin County on August 17, 2021 by Instrument Number 20210028753, to which recording reference is made in and of the description of those tracts of land more particularly described in detail below:

NORFOLK SOUTHERN RAILWAY COMPANY
650 WEST PEACHTREE ST NW
ATLANTA, GA 30308

ALL THOSE CERTAIN TRACTS of land situated in the City of Hanisburg, Paxtang Borough and Swatara Township, Dauphin County, Commonwealth of Pennsylvania, being bound and described as follows:

Tract No. 3
(Temporary Construction Easement)

Beginning at a point, (Point of Beginning), at the intersection of the northwesterly corner for Tract No. I (Required Aerial Easement) and lands of Norfolk Southern Railway Company, said point being 35' left and opposite of State Route 3013 (29th Street) right-of-way centerline station 39+74, (Coordinates Northing 338,360.7406, Easting 2,222,532.1780); Thence along the westerly line for Tract No. I (Required Aerial Easement) and crossing lands of Norfolk Southern Railway Company, S 08°33'05" E 9.76' to a point, said point being 35' left and opposite of State Route 3013 (29th Street) right-of-way centerline station 39+64, (Coordinates Northing 338,351.0856, Easting 2,222,533.6297); Thence crossing lands of Norfolk Southern Railway Company, S 85°50'32" W 41.12' to a

point, said point being 76' left and opposite of State Route 3013 (29th Street) right-of-way centerline station 39+67, (Coordinates Northing 338,348.1042, Easting 2,222,492.6171); Thence crossing lands of Norfolk Southern Railway Company, N 08°33'OS" W 10.17' to a point, said point being 76' left and opposite of State Route 3013 (29th Street) right-of-way centerline station 39+77, (Coordinates Northing 338,358.1655, Easting 2,222,491.1042); Thence along lands of Norfolk Southern Railway Company, by a curve to the right with a radius of 5762.65' and arc length of 41.15' (Chord N 86°24'45" E 41.15') to a point, the Point of Beginning.

Containing 0.009 Acres (410 Square Feet)

Tract No. 4

(Temporary Construction Easement)

Beginning at a point, (Point of Beginning), at the intersection of the southwesterly corner for Tract No. 1 (Required Aerial Easement) and on the Legal Slope Easement for Interstate 83 (State Route 0083) and lands of Norfolk Southern Railway Company, said point being 109'± left and opposite of Interstate 83 (State Route 0083) survey and right-of-way centerline station 128+52, (Coordinates Northing 338,276.4238, Easting 2,222,544.8565); Thence along the northern line of the Legal Slope Easement for Interstate 83 (State Route 0083) and crossing lands of Norfolk Southern Railway Company, S 84°01'26" W 28.10' to a point, said point being 109'± left and opposite of Interstate 83 (State Route 0083) survey and right-of-way centerline station 128+24, (Coordinates Northing 338,273.4988, Easting 2,222,516.9141); Thence crossing lands of Norfolk Southern Railway Company, S 05°58'34" E 10.00' to a point on the legal right-of-way line for limited access of Interstate 83 (State Route 0083), said point being 99' left and opposite of Interstate 83 (State Route 0083) survey and right-of-way centerline station 128+24, (Coordinates Northing 338,263.5531, Easting 2,222,517.9553); Thence along the legal right-of-way line for limited access for Interstate 83 (State Route 0083), S 84°01'26" W 173.84' to a point, said point being 99'± left and opposite of Interstate 83 (State Route 0083) survey and right-of-way centerline station 126+50, (Coordinates Northing 338,245.4548, Easting 2,222,345.0647); Thence crossing lands of Norfolk Southern Railway Company, N 05°59'05" W 36.42' to a point, said point being 135' left and opposite of Interstate 83 (State Route 0083) survey and right-of-way centerline station 126+50, (Coordinates Northing 338,281.6785, Easting 2,222,341.2673); Thence crossing lands of Norfolk Southern Railway Company, N 84°01'26" E 200.75' to a point, said point being 135' left and opposite of

Interstate 83 (State Route 0083) survey and right-of-way centerline station 128+51, (Coordinates Northing 338,302.5787, Easting 2,222,540.9236); Thence crossing lands of Norfolk Southern Railway Company and along the westerly line for Tract No. 1 (Required Aerial Easement), S 08°33'05" E 26.45' to a point, the Point of Beginning.

Containing 0.162 Acres (7,058 Square Feet)

Tract No. 5

(Temporary Construction Easement)

Beginning at a point, (Point of Beginning), at the intersection of the northeasterly corner for Tract No. 2 (Required Aerial Easement) and lands of Norfolk Southern Railway Company, said point being 38' right and opposite of State Route 3013 (29th Street) right-of-way centerline station 39+68, (Coordinates Northing 338,365.9731, Easting 2,222,605.2118); Thence along the legal right-of-way line of State Route 3013 (29th Street) and lands of Norfolk Southern Railway Company, N 59°54'01" E 33.72' to a point, said point being 69'± right and opposite of State Route 3013 (29th Street) right-of-way centerline station 39+80, (Coordinates Northing 338,382.8860, Easting 2,222,634,3885); Thence crossing lands of Norfolk Southern Railway Company, S 08°20'30" E 29.30' to a point, said point being 69' right and opposite of State Route 3013 (29th Street) right-of-way centerline station 39+51, (Coordinates Northing 338,353.8948, Easting 2,222,638.6394); Thence crossing lands of Norfolk Southern Railway Company, S 84°48'21" W 31.32' to a point, said point being 38' right and opposite of State Route 3013 (29th Street) right-of-way centerline station 39+53, (Coordinates Northing 338,351.0599, Easting 2,222,607.4543); Thence crossing lands of Norfolk Southern Railway Company and along the easterly line for Tract No. 2 (Required Aerial Easement), N 08°33'05" W 15.08' to a point, the Point of Beginning.

Containing 0.016 Acres (695 Square Feet)

Tract No. 6

(Temporary Construction Easement)

Beginning at a point, (Point of Beginning), at the intersection of the southeasterly corner for Tract No. 2 (Required Aerial Easement) and on the Legal Slope Easement for Interstate 83 (State Route 0083) and lands of Norfolk Southern Railway Company, said point being 108'± left and opposite of Interstate 83 (State Route 0083) survey and right-of-way centerline station 129+25, (Coordinates Northing

338,283.6548, Easting 2,222,617.5898); Thence along the easterly line for Tract No. 2 (Required Aerial Easement) and crossing lands of Norfolk Southern Railway Company, N 08°33'05" W 24.82' to a point, said point being 133'± left and opposite of Interstate 83 (State Route 0083) survey and right-of-way centerline station 129+24, (Coordinates Northing 338,308.2032, Easting 2,222,613.8985); Thence crossing lands of Norfolk Southern Railway Company, N 88°53'49" E 207.89' to a point, said point being 120' left and opposite of Interstate 83 (State Route 0083) survey and right-of-way centerline station 131+25, (Coordinates Northing 338,312.2048, Easting 2,222,821.7516); Thence crossing lands of Norfolk Southern Railway Company, S 03°02'49" E 16.57' to a point, said point being 103'± left and opposite of Interstate 83 (State Route 0083) survey and right-of-way centerline station 131+25, (Coordinates Northing 338,295.6633, Easting 2,222,822.6321); Thence along the Legal Slope Easement for Interstate 83 (State Route 0083) and crossing lands of Norfolk Southern Railway Company, by a curve to the left with a radius of 3344.17' and arc length of 205.43' (Chord S 86°38'54" W 205.39') to a point, the Point of Beginning.

Containing 0.093 Acres (4,044 Square Feet)

The above four (4) tracts of land shown on the Pennsylvania Department of Transportation Drawings Authorizing Acquisition for Right-of-Way for State Route 3013 Section 009 R/W in Dauphin County, being designated and delineated as Temporary Construction Easement and being a portion of land of Norfolk Southern Railway Company, designated as part of parcel 162 on sheets 124 and 126 of 127 of said drawings, as recorded in the Office for the Recorder of Deeds, in Dauphin County, Pennsylvania, Instrument Number 20210028753 on August 17, 2021, and being a portion of land conveyed from Consolidated Rail Corporation to Pennsylvania Lines LLC c/o Norfolk Southern Railway Company by deed dated May 19, 1999 and recorded October 22, 1999, in Deed Book 3536, Page 10, in the Dauphin County Courthouse.

4. That in all respects not inconsistent herewith, our Secretarial Letter dated October 23, 2020, shall remain in full force and effect.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

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(SEAL) _ ' : : : , _ .
' , -

ORDER ADOPTED: June 16, 2022

ORDER ENTERED: June 16, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|--|---|-----------------------------|
| Application of the Pennsylvania Department of | : | |
| Transportation for approval to alter the public | : | |
| crossing (DOT 592 186 Y) by replacement of the | : | Docket No.: A-2020-3021129 |
| existing bridge where SR 3013 (29th Street) crosses, | : | |
| above grade, the tracks of Norfolk Southern Railway | : | |
| Company, located in Paxtang Borough and Swatara | : | |
| Township, Dauphin County | : | 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, P.E.
Department of Transportation
Right of Way and Utilities Section

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Pennsylvania Department of :
Transportation for approval to alter the public :
crossing (DOT 592 186 Y) by replacement of the : Docket No.: A-2020-3021129
existing bridge where SR 3013 (29th Street) :
crosses, above grade, the tracks of Norfolk :
Southern Railway Company, located in Paxtang : **Electronically Filed**
Borough and Swatara Township, Dauphin County :

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 Dauphin County upon the
following named parties in the manner indicated:

VIA FIRST CLASS MAIL, POSTAGE PREPAID:

Mr. Douglas Starling, P.E.
Senior Engineer Public Improvement
Norfolk Southern Railroad Company
1200 Peachtree Street, N.E.
Atlanta, GA 30309
douglas.starling@nscorp.com

Ms. Julianne Freeman, Esq.
General Attorney
Norfolk Southern Railroad Company
Three Commercial Place
Norfolk, VA 23510-9241
Julianne.Freeman@nscorp.com

Mr. Wayne Martin, City of Harrisburg
123 Walnut Street, Suite#212
Harrisburg, PA 17101
wsmartin@harrisburgpa.gov

Jeffrey Haste, Chairman
Dauphin County Commissioners
Dauphin County Administrative Building
2 South Second Street, 4th Floor
Harrisburg, PA 17108
jhaste@dauphinc.org

Mr. Jim Fosselman, Manager
599 Eisenhower Boulevard
Harrisburg, PA 17111
jfosselman@swatara.com

Mr. Gerry Miller, Manager
Swatara Township Authority
599 Eisenhower Boulevard
PO Box 4920
Harrisburg, PA 17111
[gmiller@sta4920.com](mailto:gmilller@sta4920.com)

Mr. Rob Zimmel
Verizon Pennsylvania LLC.
Strawberry Square
11th Floor PA 15226
Harrisburg, PA 17101
Robert.zimmel@verizon.com

Mr. David Hayward
Sunseys, LLC
11 Grandview Circle
Suite 220
Canonsburg, PA 15317
david.hayward@crowncastle.com

Mr. Chris Ricciuti
Zayo Group
170 Robbins Road
Downington, PA 19335
Chris.Ricciuti@zayo.com

Mr. Mike Sweigard, Construction Specialist
Comcast Cable Communications, Inc.
4601 Smith Street
Harrisburg, PA 17109
mike_sweigard@cable.comcast.com

Mr. Rob Januszko
Commonwealth Tele. DBA Frontier
93 Old Berwick Road
Drums, PA 18222
Robert.Januszko@ftr.com

Ms. Charlotte Krupa
PPL Electric Utilities Corporation
Two North Ninth Street, GENN3
Allentown, PA 18101-1179
cakrupa@pplweb.com

Mr. Scott Dreiling
XO/Verizon
630 Clark Avenue
King of Prussia 19406
Scott.j.dreiling@verizon.com

Respectfully submitted,

Date: September 2, 2022

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