



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

September 7, 2022

C-2022-3033527

VIA E-Mail
SEE ATTACHED LIST
PARTIES OF RECORD

Donna Carson
v.

Norfolk Southern Railway
Lititz Borough
Lancaster County
Commonwealth of Pennsylvania Department of Transportation

To Whom It May Concern:

At a location in the Borough of Lititz, Broad Street (State Route 0501) crosses, at grade, a single track of Norfolk Southern Railway Company in Lancaster County (DOT 591 620 T).

Upon receipt of a notice of a rough crossing, a field investigation and conference, arranged by a Commission staff engineer, was held on August 4, 2022, at the site of the crossing. Representatives of Lancaster County, the Borough of Lititz (Borough), Norfolk Southern Railway Company (Railroad), Pennsylvania Department of Transportation (Department), Donna Carson and other residents, the Lititz Welcome Center and Oak Tree Development Company were in attendance.

At the field conference, the parties discussed the condition of the crossing consisting of an asphalt and rail seal crossing surface equipped with flashing light signals. It was noted that there were small potholes and areas of sinking pavement adjacent to the rails which had previously been repaired. The subject crossing is still active, although the Railroad noted that they plan to abolish the crossing within the next few years. The railroad agreed to replace the crossing surface, in kind, consistent with existing grade, with the provision of a 5-day full road closure. Both the Department and Borough were agreeable to this closure. The Department agreed to design the detour and the Borough agreed to furnish and maintain signage for the duration of the detour.

Inasmuch as the Railroad has agreed to make repairs to the at-grade crossing, at its sole cost and expense, and the Department has agreed to providing a 5-day road closure and in the interest of public safety, the Commission is of the opinion that a Secretarial Letter can be issued thereby ordering the Railroad to make repairs to provide a safe, smooth and satisfactory crossing.

In the interest of public safety, we direct Norfolk Southern to immediately perform all maintenance activities necessary to replace the subject crossing.

We note that the Commission informed all parties that it would authorize Norfolk Southern to immediately proceed with all necessary work. Although work may immediately commence, any party may still file objections with the Commission within twenty (20) days. Those objections will be appropriately addressed under (52 PA. Code § Section 5.44). We note that all parties are in agreement with the terms and conditions of this action.

The Commission issues this Secretarial Letter in accordance with Section 2702 of the Public Utility Code and finds that the maintenance of the crossing is necessary and proper for the service, accommodation, convenience, or safety of the public; THEREFORE:

1. Norfolk Southern Railway Company, at its sole cost and expense, furnish all material and perform all work necessary to maintain the crossing by replacing the asphalt and rail seal crossing surface, in kind, establishing a safe, smooth and satisfactory crossing surface in accordance with this Secretarial Letter.
2. Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary to design a full detour plan as required to properly and safely accommodate vehicular traffic during the time the project is being constructed.
3. The Borough of Lititz, at its initial cost and expense, furnish all material and do all work necessary to furnish and maintain all signage required to maintain the detour to properly and safely accommodate vehicular and pedestrian traffic during the time the project is being constructed.
4. Norfolk Southern Railway Company, at its sole cost and expense, furnish all material and perform all work relating to its facilities which may be required as incidental to the proposed project work; furnish construction engineering and inspection service if required as a result of the proposed work; and furnish and maintain flagmen and watchmen, as required, to protect its operations during the time the work is being performed across, above and adjacent to its tracks.
5. Any non-carrier public utilities, at their initial cost and expense, furnish all material and do all work necessary to make any temporary or permanent changes, alteration, adjustment or relocation of their facilities to allow Norfolk Southern Railway Company to repair the subject crossing; and such relocated or altered facilities thereafter be maintained by said public utility, at its sole cost and expense.

6. All parties involved herein cooperate fully with each other so that during the time the work is being performed, vehicular, pedestrian and railroad traffic will not be endangered or unnecessarily inconvenienced, and so that the requirements of each of the parties will be provided for and accommodated insofar as possible.

7. Norfolk Southern Railway Company pay all compensation for damages, if any, due to owners of property taken, injured or destroyed by reason of the construction of the new crossing surface, in accordance with this Secretarial Letter.

8. Upon completion of the alteration of the subject crossing, Norfolk Southern Railway Company, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain its railroad facilities at the crossing, including the automatically operated flashing-light railroad crossing warning signals and all appurtenant equipment, and to maintain at all times in a smooth and satisfactory condition the asphalt railroad crossing surface for a distance of twenty-four (24) inches beyond each outside rail, and provide the Pennsylvania Department of Transportation, and the Borough of Lititz at least ten (10) business days advance notice when performing any work as directed by this paragraph that may affect their facilities.

9. Upon completion of the alteration of the crossing, Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary to maintain the highway approaches to the subject crossing to points twenty-four (24) inches beyond each outside rail and, in addition, maintain the highway-rail grade crossing advance warning signs, stop lines and pavement markings on the highway approaches thereto, all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter, and provide Norfolk Southern Railway Company and the Borough of Lititz at least ten (10) business days advance notice when performing any work as directed by this paragraph that may affect their facilities.

10. Upon completion of the work herein directed, and upon written request from any party of record, this proceeding be scheduled for a hearing at a time and place to be determined by the Commission, upon due notice to all parties, to receive evidence relative to the allocation of initial costs incurred, if any, by the public utility companies and municipal authorities, and any other matters relevant to this proceeding.

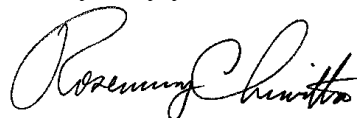
The Parties are reminded that failure to comply with this or any Order or Secretarial Letter in this proceeding may result in an enforcement action seeking civil penalties and/or other sanctions pursuant to 66 Pa. C.S. § 3301.

The Commission has waived certain regulatory service provisions as directed by the Commission's Order at M-2021-3028321. Currently, while the Commission's physical facilities are open for business, some of the operational restraints occasioned by the pandemic remain. It is evident that the pandemic and its changing nature require certain procedural flexibility for the public, the regulated community, and the Commission. Toward this end, the Commission will continue to permit electronic service by the Commission on all parties, regardless of whether a particular party has agreed to electronic service. An exception to this general waiver is where the Public Utility Code requires service by specified means, e.g., Section 702. Additionally, service on Commission staff in proceedings pending before it, whether staff is a party or otherwise, shall be exclusively electronic unless the parties agree otherwise. Filings must be submitted by e-filing with the Secretary of the Commission by opening an e-filing account through the Commission's website and accepting eservice at <https://www.puc.pa.gov/filing-resources/efiling/>. If your filing contains confidential material, you are required to file by overnight delivery to ensure the timely filing of your submission.

If you are dissatisfied with the resolution of this matter, you may, as set forth in 52 Pa. Code §§ 1.31 and 5.44, file a Petition for Reconsideration from Staff Action (Petition) with the Commission within twenty (20) days of the date of this letter. The Petition shall be submitted by e-filing said petition within twenty (20) days, or if no timely request is made, the action will be deemed to be a final action of the Commission.

The Petition MUST include: (1) a written statement (divided into numbered paragraphs) outlining the reasons for the request; (2) the case docket number (it is provided for you at the top right hand corner of this letter); (3) the party on whose behalf the petition is made; (4) a Certificate of Service on the other parties of record; and (5) a Verification with original signature in accordance with 52 Pa. Code § 1.36.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta
Secretary