

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

Public Meeting held October 27, 2022

Commissioners Present:

Gladys Brown Dutrieuille, Chairman  
Stephen M. DeFrank, Vice Chairman  
Ralph V. Yanora  
Kathryn L. Zerfuss  
John F. Coleman, Jr.

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

A-2020-3021129

**ORDER**

**BY THE COMMISSION:**

By Secretarial Letter dated October 23, 2020 (*October 23, 2020 Secretarial Letter*), this Commission, approved the Application of the Department of Transportation of the Commonwealth of Pennsylvania to alter the public crossing (DOT 592 186 Y) by replacement of State Route SR 3013 (29th Street) bridge in the City of Harrisburg, Paxtang Borough and Swatara Township, Dauphin County. By Order adopted and entered on June 16, 2022 (*June 16, 2022 Order*) the Commission directed that certain property be appropriated for this project, pursuant to Section 2702 of the Public Utility Code. 66 Pa.C.S. § 2702. *June 16, 2022 Order* at Ordering Paragraphs 2 and 3. Specifically, this project necessitated the appropriation of property within the City of Harrisburg, Paxtang Borough and Swatara Township, Dauphin County, 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.

On September 2, 2022, PennDOT filed the instant Petition with the Commission to Transfer Jurisdiction in this matter to the Court of Common Pleas of Dauphin County, pursuant to 66 Pa.C.S. § 2704, 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. PennDOT 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 Norfolk Southern Railway Company.

Section 2704(a) of the Public Utility Code provides in pertinent part:

The compensation for damages which the owners of adjacent property taken, injured, or destroyed may sustain in the construction, relocation, alteration, protection, or abolition of any crossing under the provisions of this part, shall, after due notice and hearing, be ascertained and determined by the commission.

66 Pa.C.S. § 2704(a).

Section 2704(b) of the Public Utility Code provides in part:

The commission may, of its own motion, or upon application of any party in interest, submit to the court of common pleas of the county wherein the property affected is located, the determination of the amount of damages to any property owner due to such condemnation, for which purpose such court shall appoint viewers, from whose award of damages an appeal to said court shall lie on the part of any person or party aggrieved thereby, under the general law applicable to the

appointment of viewers, for the ascertainment of damages due to the condemnation of private property for public use.

66 Pa.C.S. § 2704(b).

We determine it is appropriate to refer the subject property damage claim of Norfolk Southern Railway Company to the Court of Common Pleas of Dauphin County in accordance with 66 Pa.C.S. § 2704(b). Accordingly, this Commission finds that the instant Petition of PennDOT should be granted and that the property damage claim should be referred to the Court of Common Pleas of Dauphin County; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition filed on September 2, 2022 by the Pennsylvania Department of Transportation is granted to the extent herein indicated.
2. That this matter is referred to the Court of Common Pleas of Dauphin County for a determination of the amount of damages due to Norfolk Southern Railway Company for the property interests that have been appropriated, as set forth more fully in the Commission Order entered June 16, 2022, at A-2020-3021129.

**BY THE COMMISSION**



Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: October 27, 2022

ORDER ENTERED: October 27, 2022