

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

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 Department of Transportation of the Commonwealth of Pennsylvania for approval to alter the public crossing (DOT No. 545 164 X) by removing the existing overhead bridge and constructing a new bridge on a new alignment where State Route 1060 (Bridge Street) crosses over the tracks of Norfolk Southern Railway Company and over the Kiskiminetas River in Bell Township, Westmoreland County and in Kiskiminetas Township, Armstrong County; and the allocation of costs incident thereto.

Docket No.
A-2021-3024204

ORDER

BY THE COMMISSION:

This matter is before us by an application filed February 18, 2021, by the Pennsylvania Department of Transportation (Department).

In its application the Department seeks Commission approval to alter the public crossing (DOT No. 545 164 X) by removing the existing overhead bridge and constructing a new bridge on a new alignment where State Route 1060 (Bridge Street) crosses over the tracks of Norfolk Southern Railway Company and over the Kiskiminetas River in Bell Township, Westmoreland County and in Kiskiminetas Township, Armstrong County.

By Secretarial Letter dated May 25, 2022, the Commission approved the application to remove and replace the State Route 1060 (Bridge 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. The Department is requesting the Commission approve the right-of-way plans that include appropriation of property for an aerial easement, a required drainage easement and temporary construction easements.

The Department submitted final right-of-way plans to the Commission and all parties of record for review. The plans were received June 2, 2022, and are entitled “COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION DRAWINGS AUTHORIZING ACQUISITION OF RIGHT-OF-WAY FOR STATE ROUTE 1060 SECTION A20 R/W IN WESTMORELAND COUNTY AND STATE ROUTE 2047 SECTION A20 R/W IN ARMSTRONG COUNTY ALSO STATE ROUTE 1069 TOWNSHIP ROAD T-345,” and consist of eleven (11) sheets.

The Department avers that each party to the proceeding was served a copy of the final right-of-way plans for review.

Norfolk Southern Railway Company, by and through its counsel, Nauman, Smith, Shissler & Hall, LLP, filed an objection on June 22, 2022, with the Commission pertaining to the acquisition of right-of-way contained within the Department’s final right-of-way plans. The basis of Norfolk Southern Railway Company’s objection is that it did not have a fully executed construction agreement with the Department.

By letter dated September 16, 2022, Norfolk Southern Railway Company notified the Commission the construction agreement has been executed between the parties and therefore, they withdraw their objection filed on June 22, 2022. No other objections have been filed.

The metes and bounds descriptions required for the property appropriation associated with the right-of-way plans were submitted to the Commission on June 2, 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), and find that the appropriation of railroad property is necessary and proper for the service, accommodation, convenience or safety of the public;

THEREFORE,

IT IS ORDERED:

1. That the right-of-way plans submitted by the Pennsylvania Department of Transportation on June 2, 2022, consisting of eleven (11) sheets, identified as “COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION DRAWINGS AUTHORIZING ACQUISITION OF RIGHT-OF-WAY FOR STATE ROUTE 1060 SECTION A20 R/W IN WESTMORELAND COUNTY AND STATE ROUTE 2047 SECTION A20 R/W IN ARMSTRONG COUNTY ALSO STATE ROUTE 1069 TOWNSHIP ROAD T-345,” 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 property be and is 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 and the plans approved in Paragraph No. 1 shall be recorded by the Recorder of Deeds of Westmoreland County, and shall be indexed under the name 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 Commonwealth of Pennsylvania Department of Transportation, applicant herein:

NORFOLK SOUTHERN RAILWAY COMPANY
650 WEST PEACHTREE STREET NW – BOX 45
ATLANTA, GEORGIA 30308

ALL THAT CERTAIN tract of land situated in the Bell Township, Westmoreland County, Pennsylvania, bounded and described as follows, to wit:

TRACT NO. 1
(Aerial Easement)

Beginning at a point on the southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River, said point being located 32.5 feet right of and opposite State Route 1060 Survey and Right-of-Way Centerline at Station 104+27±, (Coordinates Northing 438741.4040, Easting 1483591.7437) at the Norfolk Southern Railroad Station 1628+88.09, 111.52 feet right as shown on Valuation Map Entitled: “Right Of Way and Track Map Pennsylvania Railroad Station 1584+00 to Station 1636+80 Office of Valuation Engineer Philadelphia, PA, Dated June 30, 1918”, VS 7029 LC 2211 MP 25.9 – 29.1 Valuation Map V-22.0, Sheet 31, said point being located approximately 0.07 miles along said Norfolk Southern Railroad in an easterly direction from Mile Marker 29/48, being the northeast corner of the herein described easement;
thence along the said southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River, North 89° 22'

46" West, 65.27 feet to a point on the southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River; said point being the intersection point with the Required Aerial Easement Line; said point being 32.5 feet left of the State Route 1060 Survey and Right-of-Way Centerline at Station 104+21±; thence through the lands of the grantor, and along the aforementioned Required Aerial Easement Line, South 5° 49' 11" West, 128.27 feet to a point on the southern property line of the grantor; said point being 32.5 feet left of the State Route 1060 Survey and Right-of-Way Centerline at Station 102+93±; thence along the southern property line of the grantor, South 87° 41' 56" East, 65.12 feet to a point on the southern property line; said point being the intersection point with the Required Aerial Easement Line; said point being 32.5 feet right of the State Route 1060 Survey and Right-of-Way Centerline at Station 102+97±; thence through the lands of the grantor, and being along the aforementioned Required Aerial Easement Line, North 5° 49' 11" East, 130.19 feet to the Point of Beginning.

Containing 8,400 square feet (0.193 acres).

The above tract of land shown on the Department's Drawings Authorizing Acquisition of Right-of-Way for State Route 1060, Section A20 R/W in Westmoreland County, being designated and delineated as Required Aerial Easement being a portion of land of Norfolk Southern Railway Company, designated as part of parcel 3 on sheets 12, 14 and 26 of 36 of said drawings being a portion of the same property granted and conveyed from Consolidated Rail Corporation, by deed dated August 16, 2000, and recorded October 18, 2000, in the Recorder of Deeds, in Westmoreland County, Pennsylvania, in Deed Book 3796, Page 285, unto Norfolk Southern Railway Company, successor through merger to Pennsylvania Lines LLC.

3. That in accordance with the provisions of Section 2702 of the Public Utility Code 66 Pa. C.S. §2702, the following described property be and is 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. 3 of this order shall be recorded by the Recorder of Deeds of Westmoreland County, and shall be indexed under the name 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 Commonwealth of Pennsylvania Department of Transportation, applicant herein:

NORFOLK SOUTHERN RAILWAY COMPANY
650 WEST PEACHTREE STREET NW – BOX 45
ATLANTA, GEORGIA 30308

ALL THAT CERTAIN tract of land situated in the Bell Township, Westmoreland County, Pennsylvania, bounded and described as follows:

TRACT NO. 2
(Required Drainage Easement)

Beginning at a point on the southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River, said point being located 200 feet more or less left of and opposite State Route 1069 Survey and Right-of-Way Centerline at Station 15+12±, (Coordinates Northing 438731.9456, Easting 1483863.4126) at the Norfolk Southern Railroad Station 1626+10.68, 111.30 feet right as shown on Valuation Map Entitled: “Right Of Way and Track Map Pennsylvania Railroad Station 1584+00 to Station 1636+80 Office of Valuation Engineer Philadelphia, PA, Dated June 30, 1918”, VS 7029 LC 2211 MP 25.9 – 29.1 Valuation Map V-22.0, Sheet 31, said point being located approximately 0.13 miles along said Norfolk Southern Railroad in an easterly direction from Mile Marker 29/48, being the northeast corner of the herein described easement;
thence along the said southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River, South 82° 08'

49" West, 20.19 feet to a point on the southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River; said point being the intersection point with the Required Drainage Easement Line; said point being 203 feet more or less left of the State Route 1069 Survey and Right-of-Way Centerline at Station 14+94±; thence through the lands of the grantor, and being along the aforementioned Required Drainage Easement Line, South 0° 02' 53" East, 164.89 feet to a point on the southern property line being 46 feet more or less left of the State Route 1069 Survey and Right-of-Way Centerline at Station 14+46±;thence continuing along the southern property line of the grantor, South 87° 41' 56" East, 20.02 feet to a point on the southern property line; said point being the intersection point with the Required Drainage Easement Line; said point being 39 feet more or less left of the State Route 1069 Survey and Right-of-Way Centerline at Station 14+65±;thence through the lands of the grantor, and being along the aforementioned Required Drainage Easement Line, North 0° 02' 53" West, 168.46 feet to the Point of Beginning.

Containing 3,333 square feet (0.077 acres).

The above tract of land shown on the Department's Drawings Authorizing Acquisition of Right-of-Way for State Route 1060, Section A20 R/W, in Westmoreland County, being designated and delineated as Required Drainage Easement and being a portion of land of Norfolk Southern Railway Company, designated as part of parcel 3 on sheets 12, 13 and 26 of 36 of said drawings being a portion of the same property granted and conveyed from Consolidated Rail Corporation, by deed dated August 16, 2000, and recorded October 18, 2000, in the Recorder of Deeds, in Westmoreland County, Pennsylvania, in Deed Book 3796, Page 285, unto Norfolk Southern Railway Company, successor through merger to Pennsylvania Lines LLC.

4. That in accordance with the provisions of Section 2702 of the Public Utility Code, 66 Pa. C. S. §2702, the following described property be and is hereby taken and appropriated temporarily, for use during the construction period only and shall terminate upon completion of the construction of the improvement and its opening to public use, in accordance with the approved right-of-way plans approved in Paragraph No. 1 of this Order, and that Paragraph No. 4 of this order shall be recorded by the Recorder of Deeds of Westmoreland County, and shall be indexed under the name 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 Commonwealth of Pennsylvania Department of Transportation, applicant herein:

NORFOLK SOUTHERN RAILWAY COMPANY
650 WEST PEACHTREE STREET NW – BOX 45
ATLANTA, GEORGIA 30308

ALL THOSE CERTAIN tracts of land situated in the Bell Township, Westmoreland County, Pennsylvania, bounded and described as follows:

TRACT NO. 3
(Temporary Construction Easement)

Beginning at a point on the southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River, said point being the intersection point with the Required Aerial Easement Line and said Legal Right-of-Way Line; said point is located 32.5 feet left of and opposite State Route 1060 Survey and Right-of-Way Centerline at Station 104+21±, (Coordinates Northing 438742.1108, Easting 1483526.4790) at the Norfolk Southern Railroad Station 1629+53.31, 109.01 feet right as shown on Valuation Map Entitled: “Right Of Way and Track Map Pennsylvania Railroad Station 1584+00 to Station 1636+80 Office of Valuation Engineer Philadelphia, PA, Dated June 30, 1918”, VS 7029 LC 2211 MP 25.9 – 29.1 Valuation Map V-22.0, Sheet 31, said point being located approximately 0.06 miles

along said Norfolk Southern Railroad in an easterly direction from Mile Marker 29/48, being the northeast corner of the herein described easement;

thence along the said southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River, North 89° 22' 46" West, 8.87 feet to a point on the southern Legal Right-of-Way Line being 41 feet more or less left of the State Route 1060 Survey and Right-of-Way Centerline at Station 104+20±; thence along the said southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River, North 88° 51' 49" West, 94.85 feet to a point on the southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River being 136 feet more or less left of the State Route 1060 Survey and Right-of-Way Centerline at Station 104+12±; thence along the said southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River, North 71° 50' 47" West, 91.24 feet to a point on the southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River; said point being the intersection point with the Temporary Construction Easement Line; said point being 225 feet left of the State Route 1060 Survey and Right-of-Way Centerline at Station 104+32±; thence through the lands of the grantor, and being along the Temporary Construction Easement Line, South 5° 49' 11" West, 6.82 feet to a point being 225 feet left of the State Route 1060 Survey and Right-of-Way Centerline at Station 104+25; thence through the lands of the grantor, South 64° 53' 25" East, 105.95 feet to a point being 125 feet left of the State Route 1060 Survey and Right-of-Way Centerline at Station 103+90; thence through the lands of the grantor, South 15° 16' 56" West, 30.41 feet to a point being 130 feet left of the State Route 1060 Survey and Right-of-Way Centerline at Station 103+60; thence through the lands of the grantor, South 72° 35' 17" East, 99.53 feet to a point being the intersection point with the Required Aerial Easement Line; said point being 32.5 feet left of the State Route 1060 Survey and Right-of-Way Centerline at Station 103+40; thence through the lands of the grantor, South 84° 10' 49" East, 97.77 feet to a point on the Legal Right-of-Way Line for existing SR 1060; said point being 65 feet more or less right of the State Route 1060 Survey and Right-of-Way Centerline at Station 103+40; thence along the said Legal Right-of-Way Line for existing SR 1060, North 1° 49' 08" East, 89.42 feet to a point on the Legal Right-of-Way Line for existing SR 1060; said point also being on the southern Legal Right-of-Way Line for the navigable waterway

Kiskiminetas River; said point being 59 feet more or less right of the State Route 1060 Survey and Right-of-Way Centerline at Station 104+29±; thence along the said southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River, North 89° 22' 46" West, 91.90 feet to the Point of Beginning.

Containing 15,742 square feet (0.361 acres).

TRACT NO. 4

(Temporary Construction Easement)

Beginning at a point on the southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River, said point being the intersection point with the Legal Right-of-Way Line for existing SR 1060; said point is located 271 feet more or less left of and opposite State Route 1069 Survey and Right-of-Way Centerline at Station 13+30±, (Coordinates Northing 438733.1719, Easting 1483651.1427) at the Norfolk Southern Railroad Station 1628+28.38, 106.36 feet right as shown on Valuation Map Entitled: "Right Of Way and Track Map Pennsylvania Railroad Station 1584+00 to Station 1636+80 Office of Valuation Engineer Philadelphia, PA, Dated June 30, 1918", VS 7029 LC 2211 MP 25.9 – 29.1 Valuation Map V-22.0, Sheet 31, said point being located approximately 0.09 miles along said Norfolk Southern Railroad in an easterly direction from Mile Marker 29/48, being the northeast corner of the herein described easement; thence along the said southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River, North 85° 44' 30" East, 91.90 feet to a point on the southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River being 245 feet more or less left of the State Route 1069 Survey and Right-of-Way Centerline at Station 14+11±; thence along the said southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River, South 83° 52' 08" East, 101.20 feet to a point on the southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River; said point being the intersection point with the Required Drainage Easement Line; said point being 203 feet more or less left of the State Route 1069 Survey and Right-of-Way Centerline at Station 14+94±; thence along the said southern Legal Right-of-Way

Line for the navigable waterway Kiskiminetas River, North 82° 08' 49" East, 92.76 feet to a point on the southern Legal Right-of-Way Line for the navigable waterway Kiskiminetas River; said point being the intersection point with the Temporary Construction Easement Line; said point being 190 feet left of State Route 1069 Survey and Right-of-Way Centerline at Station 15+77±; thence through the lands of the grantor, and being along the Temporary Construction Easement Line, North 88° 23' 35" East, 98.31 feet to a point being 170 feet left of the State Route 1069 Survey and Right-of-Way Centerline at Station 16+65; thence through the lands of the grantor, South 40° 22' 51" East, 180.12 feet to a point on the northern Legal Right-of-Way Line for State Route 1069, being 13 feet more or less left of the State Route 1069 Survey and Right-of-Way Centerline at Station 17+50; thence along the said northern Legal Right-of-Way Line for State Route 1069 by a curve to the left having a radius of 1924.81 feet, an arc length of 218.89 feet and a chord bearing South 77° 37' 57" West, 218.78 feet to the point on the northern Legal Right-of-Way Line for State Route 1069; said point being 15 feet more or less left of the State Route 1069 Survey and Right-of-Way Centerline at Station 15+33±; thence along the southern property line of the grantor, North 87° 41' 56" West, 203.55 feet to a point on the southern property line being 88 feet more or less left of the State Route 1069 Survey and Right-of-Way Centerline at Station 13+47±; thence along the southern property line of the grantor, North 64° 06' 56" West, 83.97 feet to a point on the southern property line; said point being the intersection point with the Temporary Construction Easement Line; said point being 150 feet more or less left of the State Route 1069 Survey and Right-of-Way Centerline at Station 12+90±; thence through the lands of the grantor, being the Temporary Construction Easement Line, South 88° 45' 43" East, 286.36 feet to a point being 50 feet left of the State Route 1069 Survey and Right-of-Way Centerline at Station 15+50; thence through the lands of the grantor, North 88° 08' 59" East, 94.04 feet to a point being 30 feet left of the State Route 1069 Survey and Right-of-Way Centerline at Station 16+40; thence through the lands of the grantor, North 19° 21' 31" West, 45.29 feet to a point being 75 feet left of the State Route 1069 Survey and Right-of-Way Centerline at Station 16+35; thence through the lands of the grantor, North 88° 10' 15" West, 374.38 feet to a point on the Legal Right-of-Way Line for existing SR 1060; said point being 201 feet more or less left of the State Route 1069 Survey and Right-of-Way

Centerline at Station 13+00; thence along the Legal Right-of-Way Line for existing SR 1060, North 1° 49' 08" East, 76.29 feet to the Point of Beginning.

Containing 54,137 square feet (1.243 acres).

The above two (2) tracts of land shown on the Department's Drawings Authorizing Acquisition of Right-of-Way for State Route 1060, Section A20 R/W, in Westmoreland 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 3 on sheets 12, 13, 14 and 26 of 36 of said drawings being a portion of the same property granted and conveyed from Consolidated Rail Corporation, by deed dated August 16, 2000, and recorded October 18, 2000, in the Recorder of Deeds, in Westmoreland County, Pennsylvania, in Deed Book 3796, Page 285, unto Norfolk Southern Railway Company, successor through merger to Pennsylvania Lines LLC.

5. That in all respects not inconsistent herewith, our Secretarial Letter dated May 25, 2022, shall remain in full force and effect.

BY THE COMMISSION,

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

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: October 27, 2022

ORDER ENTERED: October 27, 2022