



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

IN REPLY PLEASE  
REFER TO OUR FILE

November 30, 2022

A-2022-3036113

**Via Eservice and Email Only**  
**TO ALL PARTIES OF RECORD**

Application of Short Brothers, Inc. for approval to alter the public crossing (DOT 517 664 V) by the installation of a force main sanitary sewer where Thompson Road (T-402) crosses, at grade, the track of East Penn Railroad LLC located in New Garden Township, Chester County.

To Whom It May Concern:

By application filed with the Commission on October 13, 2022, Short Brothers, Inc. seeks Commission approval to alter the public crossing (DOT 517 664 V) by the installation of a force main sanitary sewer where Thompson Road (T-402) crosses, at grade, the track of East Penn Railroad LLC located in New Garden Township, Chester County.

The new force main sanitary sewer will be encapsulated by a 12" crush proof steel casing pipe which will be installed by jack and bore, providing a minimum vertical cover of 7.9-feet from the bottom of rail to the top of the new pipe casing.

The Commission hereby establishes its jurisdictional limits at the subject crossing as the area within the confines of the railroad right-of-way and the highway right-of-way.

In its application, Hillcrest Associates on behalf of Short Brothers, Inc. stated that the proposed installation is necessary to allow the proposed 51-lot subdivision to be served by public sewer. Short Brothers, Inc., at its sole cost and expense will be directed to perform the necessary installation and provide for maintenance and protection of highway and pedestrian traffic during the installation. On November 7, 2022, via email Aqua Pennsylvania agreed to accept future maintenance responsibility for the new force main sanitary sewer, at its sole cost and expense. The cost of the project is anticipated to be approximately \$34,249.20.

All work is to be performed in accordance with the plan entitled: "EXHIBIT A" consisting of one (1) sheet submitted to the Commission with the application.

Hillcrest Associates on behalf of Short Brothers, Inc. averred that a copy of the application and plan were served on New Garden Township, East Penn Railroad LLC, ReLTEK, LLC, and Aqua Pennsylvania. Although the Pennsylvania Department of Transportation (Department) and Chester County were not listed as a party of record on the certificate of service, they will be made a party of record to this proceeding. All parties of record including the Department and Chester County were queried by letter dated October 21, 2022, sent via email as to any objection to the subject application and plan. None of the parties have responded with any objection to the subject application or plan.

The Commission has exclusive jurisdiction in crossing alterations and is the final arbiter of any fees associated with a crossing application. Any conditions, including fees associated with a crossing application, must be approved by the Commission.

Upon full consideration of the matters involved, we find that a hearing is not necessary and that a Secretarial Letter may be issued approving the application.

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

The application of Short Brothers, Inc. is approved as herein directed:

1. The Pennsylvania Department of Transportation and Chester County be made a party hereto.
2. The caption of the subject proceeding is hereby revised as shown herein.
3. The public crossing (DOT 517 664 V) where Thompson Road (T-402) crosses, at grade, the track of East Penn Railroad LLC in New Garden Township, Chester County be altered in accordance with the installation plan entitled: "EXHIBIT A" consisting of one (1) sheet provided to the Commission on October 13, 2022; which plan is made part hereof and is hereby approved except insofar as it may relate to the division of work, deletion of work, or the allocation of costs and expenses incident to the installation of the project.
4. Short Brothers, Inc., having agreed to do so, at its sole cost and expense, furnish all material and perform all work necessary to alter the crossing by the installation of a force main sanitary sewer within the joint right-of-way of the highway where Thompson Road (T-402) crosses, at grade, the track of East Penn Railroad LLC; all in accordance with the approved plan and this Secretarial Letter.
5. Short Brothers, Inc., having agreed to do so, at its sole cost and expense, furnish all material and perform all work necessary to establish and maintain any detours or traffic controls that may be required to properly and safely accommodate highway and pedestrian traffic during the time the crossing is being altered.
6. Any relocation of, changes in and/or removal of any adjacent structures, equipment or other facilities of any non-carrier public utility which may be required as incidental to the alteration of the crossing, be made by said public utility at its initial cost, and in such a manner as will not interfere with the alteration of the crossing; and such relocated or altered facilities thereafter be maintained by said public utility, at its sole cost and expense.

7. East Penn Railroad LLC, at the sole cost and expense of Short Brothers, Inc., furnish all material and perform all work relating to its facilities which may be required as incidental to the performance of the proposed work and furnish any watchmen, flagmen, inspectors and/or engineering services that may be deemed necessary to protect the railroad's operations or facilities during the time the facilities are being installed.

8. Short Brothers, Inc., having agreed to do so, at its sole cost and expense, furnish all material and perform all work necessary to complete the remainder of the project, and any other ancillary features of the project, generally in accordance with the approved plan and this Secretarial Letter.

9. The alteration of the crossing be completed on or before November 30, 2023, and that on or before said date Short Brothers, Inc., report in writing the date of actual completion of the work to this Commission and certify to the parties of record and this Commission that the work has been satisfactorily completed in accordance with the approved plan and this Secretarial Letter.

10. Short Brothers, Inc., having agreed to do so, at its sole cost and expense, pay all compensation for damages, if any, due to owners of property taken, injured, or destroyed by reason of the alteration of the crossing in accordance with this Secretarial Letter.

11. 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.

12. Short Brothers, Inc. cooperate with the non-carrier utilities involved, so that during the alteration of the involved crossing, the facilities of the non-carrier utilities will not be endangered or unnecessarily interrupted.

13. Short Brothers, Inc., at least seven (7) days prior to the start of work, notify all parties of record of the actual date on which work will begin.

14. Upon completion of the alteration of the crossing, Aqua Pennsylvania, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the new force main sanitary sewer and any ancillary facilities installed in accordance with the approved plan and this Secretarial Letter.

15. Upon completion of the alteration of the crossing, East Penn Railroad LLC, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain its railroad facilities at the subject crossing, including warning devices and all appurtenant equipment, and maintain at all times in a smooth and satisfactory condition the crossing surface located between the rails and for a distance of twenty-four (24) inches beyond the outermost rails; all in accordance with the approved plan, Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter, and provide New Garden Township at least ten (10) business days advance notice when performing any work as directed by this paragraph that may affect their facilities.

16. Upon completion of the alteration of the crossing, New Garden Township, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the highway approach roadways to the subject crossing, including the grade crossing advance warning signs, pavement markings, and stop lines, if required, to points twenty-four (24) inches beyond each outside rail; all in accordance with the approved plan, Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter, and provide East Penn Railroad LLC at least ten (10) business days advance notice when performing any work as directed by this paragraph that may affect their facilities.

17. 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, for the purpose of taking testimony upon the final allocation of any remaining costs incurred by the non-carrier utility companies and other matters relevant to this proceeding.

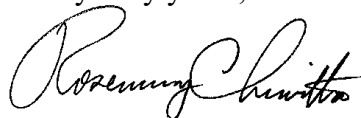
The Parties are reminded that failure to comply with this or any Order or Secretarial Letter in this proceeding may result in an enforcement action seeking civil penalties and/or other sanctions pursuant to 66 Pa. C.S. § 3301.

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, reading "Rosemary Chiavetta". The signature is written in a cursive style with a large, prominent initial "R".

Rosemary Chiavetta  
Secretary