



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

IN REPLY PLEASE  
REFER TO OUR FILE

December 5, 2022

A-2019-3010031

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

Application of the Department of Transportation of the Commonwealth of Pennsylvania for approval to perform bridge preservation work on the existing bridge where State Route 1038 crosses above the track of Norfolk Southern Railway Company, DOT Number 510 878 N in East Deer Township, Allegheny County and the City of New Kensington, Westmoreland County and for the approval of exemption from the minimum overhead clearance requirements of 52 Pa. Code Section 33.121 and the allocation of costs incident thereto.

To Whom It May Concern:

Paragraph 5 of the Commission's Order entered August 5, 2021, directed that detailed construction plans for the project involved herein be submitted for approval.

The detailed construction plans were received by the Commission on November 3, 2022, with the Pennsylvania Department of Transportation averring that a copy was served electronically on all parties of record. The plans are identified as "COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION DRAWINGS FOR CONSTRUCTION OF STATE ROUTE 1038 SECTION A01 AND STATE ROUTE 0056 SECTION A01" and consist of one-hundred forty-six (146) sheets. No objections to the plans were received by the Commission.

The detailed construction plans received by the Commission on November 3, 2022 show an existing vertical clearance of 20'-6" above the top of rail. Paragraph 3 of our Order entered August 5, 2021, granted a vertical clearance exemption of 20'-7" above the top of rail.

The Commission issues this Secretarial Letter in accordance with Section 2702 of the Public Utility Code and approves the detailed construction plans submitted by the Pennsylvania Department of Transportation and finds that:

1. Ordering Paragraph 3 of our Order entered herein on August 5, 2021 which reads as follows:

“3. That an exemption from the Commission’s overhead (vertical) clearance requirements as set forth in Title 52 Pa Code §33.121(a), be granted in this particular instance for a minimum vertical clearance, with respect to the tracks of Norfolk Southern Railway Company, of 20 feet 7 inches from the top of rail to the bottom of the bridge.”

Be and is hereby modified to read:

3. That an exemption from the Commission’s overhead (vertical) clearance requirements as set forth in Title 52 Pa Code §33.121(a), be granted in this particular instance for a minimum vertical clearance, with respect to the tracks of Norfolk Southern Railway Company, of 20 feet 6 inches from the top of rail to the bottom of the bridge.

2. The detailed construction plans entitled: “COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION DRAWINGS FOR CONSTRUCTION OF STATE ROUTE 1038 SECTION A01 AND STATE ROUTE 0056 SECTION A01” and consist of one-hundred forty-six (146) sheets provided to the Commission on November 3, 2022, be and are hereby approved.

3. In all other aspects our Order entered herein on August 5, 2021 remain in full force and effect.

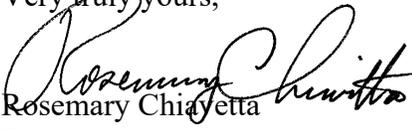
The Parties are reminded that failure to comply with this or any Order or Secretarial Letter in this proceeding may result in an enforcement action seeking civil penalties and/or other sanctions pursuant to 66 Pa. C.S. § 3301.

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,

  
Rosemary Chiaetta  
Secretary