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December 19, 2022

VIA Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

RE: Application of the Department of Transportation of the Commonwealth of Pennsylvania for approval to alter the crossings where State Route 3104 crosses, above grade, the tracks of CSX Transportation Inc. (DOT 584 825 U), Norfolk Southern Railway Company (DOT 507 455 K), and the Pittsburgh and Ohio Central Railroad Company (DOT Unknown) in the City of Pittsburgh, Stowe Township and McKees Rocks Borough, Allegheny County.

Dear Secretary Chiavetta:

Enclosed for filing please find the Prehearing Conference Memorandum of the City of Pittsburgh, which was served today upon all interested parties of record.

Sincerely,

/s/ Lawrence H. Baumiller, Esquire
Assistant City Solicitor

LHB/sg
Enclosure

cc: Judge Conrad A. Johnson (via email with enclosures)
All Interested Parties of Record (via email with enclosures)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of the Department of Transportation : A-2020-3020667
of the Commonwealth of Pennsylvania for approval :
to alter the crossings where State Route 3104 crosses, :
above grade, the tracks of CSX Transportation Inc. :
(DOT 584 825 U), Norfolk Southern Railway :
Company (DOT 507 455 K), and the Pittsburgh and :
Ohio Central Railroad Company (DOT Unknown) in :
the City of Pittsburgh, Stowe Township and McKees :
Rocks Borough, Allegheny County. :

PREHEARING CONFERENCE MEMORANDUM OF CITY OF PITTSBURGH

The City of Pittsburgh ("City"), by and through its undersigned counsel, hereby files this Prehearing Conference memorandum, pursuant to the Prehearing Conference Order of Administrative Law Judge Conrad A. Johnson, dated November 3, 2022.

1. History Of The Proceeding

On July 2, 2020, the Pennsylvania Department of Transportation ("PennDOT") submitted an application ("Application") to the Public Utility Commission ("PUC") for approval to alter the crossings where State Route 3104 crosses, above grade, the tracks of Norfolk Southern, CSXT and the Pittsburgh & Ohio Central Railroad Company ("POHC"), in the City of Pittsburgh, Stowe Township and McKees Rocks Borough in Allegheny County.

An initial field investigation and conference was conducted by a PUC staff engineer on October 21, 2020, with representatives from PennDOT, CSXT, Norfolk Southern, the City of Pittsburgh, McKees Rocks Borough, Peoples Natural Gas Company and Verizon in attendance. PennDOT agreed to maintain the substructure and superstructure of the entire length of the McKees Rocks Bridge and the railroad parties agreed to maintain their respective railroad

facilities in the area of the subject crossings. At the time of the field conference, future maintenance of the bridge lighting and removal of snow, ice, and debris from the sidewalks had not been resolved.

By Secretarial Letter dated March 10, 2021, PUC approved the Application and directed PennDOT to construct the project at its sole cost and expense. It was further determined that PennDOT would establish and maintain all traffic controls required to accommodate pedestrian and highway traffic at its sole expense and reimburse the railroad parties for the cost of flagmen and protection of train traffic.

The matter was then reassigned to the Office of Administrative Law Judge to determine maintenance for removal of snow, ice, and debris from the sidewalks on the bridge, applying anti-skid and de-icing material, and maintenance for lighting and energization for the lighting on the structure. A hearing was held on September 30, 2021 and briefs were filed on December 10, 2021. ALJ Johnson found in his March 18, 2021, Recommended Decision that, *inter alia*: 1) PennDOT, at its sole cost and expense, shall continue to maintain and energize the navigational lighting and roadway lighting for the entire span of the bridge; 2) PennDOT, at its sole cost and expense, shall furnish all materials and perform all work necessary thereafter to perform maintenance of removing snow, ice, and debris from the sidewalks on the entire span of the bridge; 3) PennDOT, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the signals, signage, and signal energization of the bridge; 4) PennDOT, at its sole cost and expense, shall furnish all material and perform all work necessary for applying anti-skid and de-icing material to the bridge.

PennDOT filed its Exceptions to the Recommended Decision on April 7, 2022, which related only to the assignment to PennDOT of all costs related to roadway lighting maintenance

and energization. On June 16, 2022, the Recommended Decision of ALJ Johnson was adopted by the PUC, with some modifications. PennDOT filed a Petition for Reconsideration and/or Clarification on July 1, 2022, which the PUC Granted. The PUC remanded to ALJ Johnson the sole issue of the future maintenance and expenses of the traffic signals and signage on the bridge. By his order dated November 3, 2022, ALJ Johnson scheduled a Prehearing Conference for Thursday, December 22, 2022, at 10:00 a.m. ALJ Johnson instructed the parties to provide a Prehearing Memorandum by December 19, 2022, at 4:00 p.m.

2. A List Of Issues Regarding This Proceeding

- a. Responsibility for the future maintenance and expenses of the traffic signals and signage on the bridge.

3. Proposed Witnesses And Subject Of Testimony

a. Proposed witnesses:

- i. Jeffrey Skalican, Deputy Director, Department of Mobility and Infrastructure; and
- ii. Michael Malock, Municipal Traffic Engineer, Department of Mobility and Infrastructure.

b. Subjects of testimony:

- i. City's operations and budget;
- ii. City's capability to maintain and control the signals on the bridge.

- c. Reservation of Rights: The City reserves its right to supplement this list of proposed witnesses and subjects of testimony, if necessary.

4. List Of Proposed Exhibits

- a. Unknown at this time. Evidence may be identified through discovery and evidence presented at the hearing would be submitted beforehand with the City's written direct and rebuttal testimony.

Respectfully Submitted,

Date: December 19, 2022

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A A-2020-3020667 –APPLICATION OF THE DEPARTMENT OF TRANSPORTATION OF THE COMMONWEALTH OF PENNSYLVANIA FOR APPROVAL TO ALTER THE CROSSINGS WHERE STATE ROUTE 3104 CROSSES, ABOVE GRADE, THE TRACKS OF CSX TRANSPORTATION INC. (DOT 584 825 U), NORFOLK SOUTHERN RAILWAY COMPANY (DOT 507 455 K), AND THE PITTSBURGH AND OHIO CENTRAL RAILROAD COMPANY (DOT UNKNOWN) IN THE CITY OF PITTSBURGH, STOWE TOWNSHIP AND MCKEES ROCKS BOROUGH, ALLEGHENY COUNTY

Revised 11/1/22

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