

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

Public Meeting held December 22, 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 592 187 F) by replacement of the existing bridge where SR 3007 (19th Street) crosses, above grade, the tracks of Norfolk Southern Railway Company, located in the City of Harrisburg, Dauphin County and for an exemption from the Commission's minimum overhead (vertical) clearance requirements as set forth in Title 52 Pa Code §§33.121; and the allocation of certain costs and expenses incident thereto.

A-2020-3021193

**ORDER**

**BY THE COMMISSION:**

By Secretarial Letter dated February 23, 2021, the Commission approved the Application of the Pennsylvania Department of Transportation for approval to alter the public crossing (DOT 592 187 F) by replacement of the existing bridge where SR 3007 (19th Street) crosses, above grade, the tracks of Norfolk Southern Railway Company, in The City of Harrisburg, Dauphin County, and for an exemption from the Commission's minimum overhead (vertical) clearance requirements as set forth in 52 Pa. Code §§ 33.121; and the allocation of certain cost and expenses. The Commission also directed that certain property be appropriated for the purpose of the aforesaid project,

pursuant to Section 2702 of the Public Utility Code. 66 Pa.C.S. § 2702. Specifically, the aforesaid project necessitated the appropriation of property within the city of Harrisburg, Dauphin County, filed with the Recorder of Deeds of Dauphin County on August 17, 2021, by Instrument No. 20210028753. (Department Claim No. 2200500000).

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.

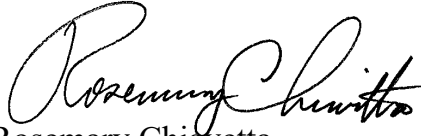
66 Pa.C.S. § 2704(b).

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.
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-2020-3021193.

**BY THE COMMISSION**

  
Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: December 22, 2022

ORDER ENTERED: December 22, 2022