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April 10, 2023

**Via Electronic Filing**

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

**Re: Application of CSX Transportation, Inc. for approval of the alteration of its 25th Street Viaduct where the tracks of CSX Transportation, Inc. crosses above seven public streets in the City of Philadelphia, Philadelphia County (DOT# 530 139 V, DOT# 530 124 F, DOT# 530 125 M, DOT# 530 126 U, DOT# 530 129 P, DOT # 530 130 J, and DOT# 530 131)  
Docket No. A-2023 - 3038516**

Dear Secretary Chiavetta:

Enclosed please find a Petition for Reconsideration of Staff Action on behalf of CSX Transportation, Inc. for filing in the above-referenced matter. A copy has been served upon all parties of record. Thank you.

Sincerely yours,

A handwritten signature in black ink that reads 'Benjamin C. Dunlap, Jr.' with a stylized flourish at the end.

Benjamin C. Dunlap, Jr.

BCDjr/klg  
Enclosure  
cc: All Parties of Record

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Application of CSX Transportation, Inc. for approval of the alteration of its 25th Street Viaduct where the tracks of CSX Transportation, Inc. crosses above seven public streets in the City of Philadelphia, Philadelphia County (DOT# 530 139 V, DOT# 530 124 F, DOT# 530 125 M, DOT# 530 126 U, DOT# 530 129 P, DOT # 530 130 J, and DOT# 530 131).** : **Docket No. A-2023 - 3038516**  
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**PETITION FOR RECONSIDERATION OF STAFF ACTION**

CSX Transportation, Inc. (“CSXT”), by and through its undersigned counsel, hereby files this Petition for Reconsideration of the Secretarial Letter issued in this proceeding on March 21, 2023, pursuant to the provisions of 52 Pa. Code §§ 1.31 and 5.44, based upon the following:

1. In the second paragraph on the second page of the Secretarial Letter, Staff states that an earlier Complaint proceeding in 2005 was resolved “with CSXT committing to rehabilitate the 25<sup>th</sup> Street viaduct in 4 stages,” followed by a summary of each of the 4 phases of that planned project.

2. Staff’s statement is incorrect. Instead, as shown by the Order entered July 15, 2005, in the proceeding docketed to C-20054422, which is attached hereto as Exhibit A, that matter was resolved by CSXT agreeing to bi-annually inspect the Viaduct and to remove any loose concrete and perform necessary repairs.

3. The four-phase rehabilitation project was voluntarily announced by CSXT in April of 2015 as a multi-year, multi-phase project to improve the 1.2-mile-long Viaduct. While Phase 1 was completed in mid-2016, further work was interrupted by disagreement between the City and CSXT as to each party’s responsibilities for carrying out related drainage and other work necessary to commence with Phase 2 of the project.

4. The 2015 rehabilitation plan was never agreed upon as part of any formal or informal PUC proceeding.

5. While CSXT has not progressed the 2015 project as originally envisioned, CSXT was awarded a state RTAP grant to pay 70 percent of the costs for a demonstration project to rehabilitate the five-span bridge crossing over Washington Avenue. If successful, this approach will later be extended to the rest of the Viaduct in place of the 2015 rehabilitation plan.

6. As the 2015 rehabilitation plan has nothing to do with the subject matter of the current Application, CSXT respectfully requests that all references to that plan on page 2 of the Secretarial Letter be deleted.

7. Secondly, the forementioned RTAP grant will provide 70 percent funding for the removal of unneeded, inactive spur bridges at the seven public crossings involved in the present Application in order to provide visual, pedestrian, vehicular benefits along 25<sup>th</sup> Street and improved alignment along the corridor. This alteration work is in addition to the repair work to be performed at the Washington Avenue bridge.

8. Staff incorrectly states in the sixth paragraph on page 3 of the Secretarial Letter and in multiple ordering paragraphs that CSXT has agreed to construct the spur removal project “at its sole cost and expense.”

9. While CSXT does agree to pay any project costs not covered by the RTAP grant, it is not correct to state that it has agreed to fund the project at its sole cost and expense.

10. Therefore, CSXT respectfully requests that following each reference to “at its sole cost and expense” in the sixth paragraph on page 3 of the Secretarial Letter as well as in ordering paragraphs 3, 4, 8, 9 and 12 on page 4 of the Secretarial Letter that “, subject to 70 percent reimbursement from a PennDOT RTAP grant,” be added.

WHEREFORE, CSX Transportation, Inc. respectfully requests that this Honorable Commission grant the requested revisions to the March 21, 2023, Secretarial Letter specified in paragraphs 6 and 10 above.

Respectfully submitted,

**NAUMAN, SMITH, SHISSLER & HALL, LLP**



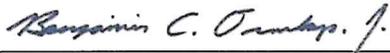
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**Benjamin C. Dunlap, Jr., Esquire**  
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Counsel for CSX Transportation, Inc.

Date: April 10, 2023

**VERIFICATION**

I, **Benjamin C. Dunlap, Jr., Esquire**, a member of the firm of Nauman, Smith, Shissler & Hall, LLP, attorneys for CSX Transportation, Inc. in the foregoing proceeding, make this verification on behalf of CSX Transportation, Inc., and do state that as an attorney for CSX Transportation, Inc., I am authorized to make this Verification on behalf of CSX Transportation, Inc., and further state that, based on information provided to me by CSX Transportation, Inc., the facts set forth in the foregoing “**Petition for Reconsideration from Staff Action**” are true and correct to the best of my knowledge, information and belief. I understand that my statements are made subject to 18 Pa. C.S. § 4904 providing for criminal penalties for unsworn falsification to authorities.

  
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Benjamin C. Dunlap, Jr., Esquire

Date: April 10, 2023

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Application of CSX Transportation, Inc. : Docket No. A-2023 - 3038516**  
**for approval of the alteration of its 25th :**  
**Street Viaduct where the tracks of CSX :**  
**Transportation, Inc. crosses above seven :**  
**public streets in the City of Philadelphia, :**  
**Philadelphia County (DOT# 530 139 V, :**  
**DOT# 530 124 F, DOT# 530 125 M, DOT# :**  
**530 126 U, DOT# 530 129 P, DOT # 530 130 : Filed Electronically**  
**J, and DOT# 530 131). :**

**CERTIFICATE OF SERVICE**

I hereby certify that I served one (1) copy of the Petition for Reconsideration from Staff Action of CSX Transportation, Inc., in the above action, this day by sending it via electronic mail, addressed to:

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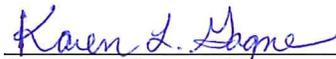
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Karen L. Gagne, Secretary to  
Benjamin C. Dunlap, Jr.

Date: April 10, 2023

# EXHIBIT A

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

Public meeting held July 14, 2005

Commissioners Present:

Wendell F. Holland, Chairman  
James H. Cawley, Vice Chairman  
Bill Shane  
Kim Pizzingrilli  
Terrance J. Fitzpatrick

Joseph P. Marazzo

C-20054422

vs.

CSX Transportation, Inc.

O R D E R

BY THE COMMISSION:

This matter is before us by reason of a complaint filed by Mr. Joseph P. Marazzo on March 2, 2005. In the complaint Mr. Marazzo states that there is a bridge viaduct that carries the tracks of CSX Transportation, Inc. (CSX) in south Philadelphia. Said bridge viaduct is located above and is parallel to 25<sup>th</sup> Street in the area that extends between Passyunck Avenue and Washington Avenue. Mr. Marazzo further describes the bridge structure as being constructed of concrete and that it has been deteriorating and in need of repair.

On May 13, 2005, a field conference and investigation was held at the site of the crossing with Mr. Marazzo and representatives of Pennsylvania Department of Transportation, City of Philadelphia and CSX Transportation, Inc. (CSX) in attendance.

At that time the parties present performed cursory inspection of a bridge segment to consider the structural conditions referred to in this proceeding. The parties were generally of the opinion that the complaint had merit and CSX agreed to inform the parties of its intentions to repair the hazardous conditions.

By letter dated May 31, 2005, CSX indicated that it recognizes the bridge spalling concrete will be a on-going condition. It expects to inspect and perform work on a bi-annual basis by scaling off loose concrete from the bridge concrete surface and apply sealer and patching material in those areas that are appropriate.

Upon full consideration of the matters involved, we determine that it is not necessary to schedule a hearing in this proceeding at this time and that issuance of an order without hearing is proper since the railroad has proposed a remedy that includes the inspection and repair of the bridge spalling concrete condition.

The record having been certified to this Commission, we issue this order pursuant to Section 335(a) of the Public Utility Code, 66 Pa. C. S. §335(a);  
THEREFORE,

IT IS ORDERED:

1. That the complaint filed March 2, 2005 be and is hereby sustained to the extent herein after ordered.

2. That Joseph P. Marazzo, CSX Transportation, Inc. Pennsylvania Department of Transportation and City of Philadelphia are made parties to this proceeding.

3. That CSX Transportation, Inc. at its sole cost and expense, furnish all material and perform work necessary to inspect bi-annually and identify the areas of deteriorated concrete for the length of the bridge viaduct that passes over the public roadways involved in this proceeding.

4. In accordance with the result of the inspection directed to be performed in paragraph no. 2 of this order CSX Transportation, Inc., at its sole cost and expense, furnish all material and perform all work necessary to remove the loose concrete and perform repairs in a manner that preserves the integrity of the structure and prevent debris from falling below the bridge in the area of the traveled roadways involved in this proceeding.

5. That this order, insofar as it places costs of the work on CSX Transportation, Inc., is without prejudice to its rights to recover said costs in accordance with any lawful agreement.

BY THE COMMISSION

James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: July 14, 2005

ORDER ENTERED: July 15, 2005