



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

April 19, 2023

IN REPLY PLEASE
REFER TO OUR FILE

A-2023-3038516
Amended

TO ALL PARTIES OF RECORD

Application of CSX Transportation, Inc. (“CSXT”) 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 R).

To Whom It May Concern:

This matter is before us by reason of an application filed February 24, 2023, by CSX Transportation, Inc. (“CSXT”), for approval to alter the subject crossings (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 R) by the removal of the siding spans (otherwise known as spur spans) of the 25th Street viaduct where this viaduct and tracks of CSXT cross above the seven subject public crossings in the City of Philadelphia, Philadelphia County.

The application approval Secretarial Letter issued March 21, 2023, be and is hereby been amended to address the concerns listed in CSXT’s “Petition for Reconsideration of Staff Action” filed April 10, 2023.

The involved crossings are the following:

1. Federal Street, DOT #530 139 V
2. Oakford Street, DOT# 530 124 F
3. Wharton Street, DOT #530 125 M
4. Reed Street, DOT #530 126 U
5. Morris Street, DOT #530 129 P
6. Moore Street, DOT#530 130 J
7. Mifflin Street, DOT#530 131 R

This application is associated with previous proceedings filed under dockets C-20054422 and C-2022-3033708. During the virtual field conferences held on September 23, 2002, and January 18, 2023, under docket C-2022-3033708, with the City of Philadelphia and CSXT in attendance, the proposed work involving removal of these subject spur spans was described in detail and discussed with the parties present. None of the parties advised that they object to the performance of the outlined work in this subject application.

The subject project work will be partially funded through a federal RTAP grant administered through the Department of Transportation Commonwealth of Pennsylvania. All jurisdictional project work will be performed within the railroad right-of-way and the public streets right-of-way. The project work is tentatively scheduled to begin in late May of 2023 and be completed by December 31, 2023.

The proceeding under docket C-20054422 was resolved with CSXT agreeing to bi-annually inspect the viaduct and to remove any loose concrete and perform necessary repairs.

The proceeding under docket C-2022-3033708 involve the City of Philadelphia filing a complaint stating that CSXT is not completing the rehabilitation work that was agreed upon under the previous C-20054422 resolution and agreement. CSXT filed a response to the C-2022-3033708 subject complaint citing the lack of cooperation from the City of Philadelphia in clearing the lateral drainage associated with the structure. Discussions pertaining to this complaint case are still on-going at present. A resolution to this complaint has not been made but a tentative understanding has been reached where the City of Philadelphia will check and clear the lateral drainage and CSXT will continue efforts to rehabilitate this viaduct.

Any non-carrier public utility companies affected by this improvement project will be directed to initially bear the cost for any alteration or relocation of their facilities. Our Secretarial Letter will provide the non-carrier public utility companies with the opportunity to determine at a later date whether they will seek reimbursement for their project costs and if a hearing is needed to resolve any remaining issues.

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.

CSXT has served a copy of the application on each party in interest and provided a copy of the proof of service. None of the parties have advised that they object to the issuance of a Secretarial Letter approving the subject application.

The applicant has not yet completed and submitted a full set of final construction plans showing the details of the subject crossing alteration. It will be necessary for CSXT to submit final plans to all parties of record for review and to this Commission for approval before the start of construction.

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

We have considered the referenced application and find that the proposed improvement project is in the interest of convenience and public safety and should be constructed.

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 a Secretarial Letter without hearing is proper, since CSXT has agreed to construct the proposed project at its sole cost and expense, subject to a 70 percent reimbursement from a Department of Transportation RTAP grant, and none of the parties have expressed any objection.

We also determine that the alteration or relocation of the non-carrier public utility companies' facilities should be made by the respective companies, at their initial cost and expense; and that a hearing be scheduled, if necessary, after all work has been completed to consider any remaining cost allocation for expenses incident to the crossing alteration project.

The Commission issues this Secretarial Letter in accordance with Section 2702 of the Public Utility Code and finds that:

The application is approved as hereinafter directed.

1. The caption of the subject proceeding is hereby revised as shown herein.
2. The crossings where Federal Street, Oakford Street, Wharton Street, Reed Street, Morris Street, Moore Street, and Mifflin Street cross, below grade, the tracks of CSX Transportation, Inc, in 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 R), be altered by the removal of the siding spans (otherwise known as spur spans) of the 25th Street viaduct.
3. CSX Transportation, Inc., at its sole cost and expense, subject to a 70 percent reimbursement from a Department of Transportation RTAP grant, and prior to construction, prepare and submit a full set of final plans to all parties for review and to the Commission for approval.
4. CSX Transportation, Inc., at its sole cost and expense, subject to a 70 percent reimbursement from a Department of Transportation RTAP grant, furnish all material and perform all work required to complete the crossing alteration project in accordance with the approved plans and this Secretarial Letter.
5. CSX Transportation, Inc., at least fourteen (14) days prior to the start of work, will notify all parties in interest of the actual date on which work will begin.

6. Any relocation of, changes in and/or removal of any adjacent structures, equipment or any other facilities of any public utility located within or beyond the limits of the crossing, within the Commission's jurisdiction, be made by said public utility at its initial cost and expense, and in such a manner as will not interfere with the construction of the improvement, and said relocated or altered facilities thereafter be maintained by said public utility, at its sole cost and expense.

7. 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 said requirements of each of the parties will be provided for and accommodated insofar as possible.

8. CSX Transportation, Inc., at its sole cost and expense, subject to a 70 percent reimbursement from a Department of Transportation RTAP grant, furnish all material and perform all work necessary to establish and maintain any detours or traffic controls that may be required to properly accommodate highway traffic during the time the crossing alteration work is being performed.

9. CSX Transportation, Inc., at its sole cost and expense, subject to a 70 percent reimbursement from a Department of Transportation RTAP grant, furnish all material and perform all work required to complete the remainder of the crossing alteration project in accordance with the approved plans and this Secretarial Letter.

10. The crossing alteration project be completed on or before December 31, 2023, and that on or before said date, CSX Transportation, Inc., report the date of actual completion of the work and certify to this Commission that the work has been completed satisfactorily in accordance with the approved plans and this Secretarial Letter.

11. City of Philadelphia cooperate with CSX Transportation, Inc., so that in the construction of the crossing alteration project, the facilities of the railroad company will not be endangered or unnecessarily impeded.

12. CSX Transportation, Inc., at its sole cost and expense, subject to a 70 percent reimbursement from a Department of Transportation RTAP grant, 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 altered.

13. The non-carrier public utility companies cooperate with CSX Transportation, Inc., so that the alteration and/or relocation of their facilities will not interfere with the completion of the crossing alteration project.

14. CSX Transportation, Inc., at its sole cost and expense, maintain the debris shield netting on the underside of the 25th Street viaduct bridge structure, to prevent spalling concrete and debris from falling to the streets below, until the improvement and rehabilitation project for the viaduct structure is completed.

15. CSX Transportation, Inc., pay all compensation for damages due to owners of property taken, injured, or destroyed by reason of the construction of the crossing alteration project in accordance with this Secretarial Letter.

16. CSX Transportation, Inc., having agreed to do so, bear any remaining cost in excess of the 70 percent reimbursement from a Department of Transportation RTAP grant, if any, as its share for the work performed by the CSX Transportation, Inc. in compliance with Numbered Paragraphs 3, 4, 8, 9 and 12 of this Secretarial Letter.

17. Upon completion of the alteration or relocation of non-carrier public utility company facilities, each non-carrier public utility company, at their sole cost and expense, furnish all material and perform all work required thereafter to maintain their respective facilities that are located within the limits of this Commission's jurisdiction.

18. Upon completion of the alteration of the subject crossings CSX Transportation, Inc., at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain its railroad facilities at the subject crossings all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter.

19. Upon completion of the alteration of the crossing, City of Philadelphia, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its highway facilities at the subject crossings and in addition, maintain the warning signs, stop signs, pavement markings, and other highway associated facilities if required, all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter.

20. Upon completion of the construction of this crossing improvement project and the Commission receiving written notice that there are unresolved issues to be considered, this proceeding be scheduled for a hearing at a time and place assigned by this Commission, upon due notice to all parties hereto, to receive evidence relative to the allocation of construction cost, responsibility for future maintenance or any 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.

All formal documents must be filed with the Secretary of the Commission. Documents must be eFiled, mailed or hand delivered. All filings should be addressed to the Secretary, PA Public Utility Commission, 400 North Street, Harrisburg, PA 17120. The Commission will not accept documents delivered by fax or by e-mail. Parties are encouraged to file formal documents by eFiling with the Secretary of the Commission by opening an eFiling account through the Commission's website (the account is free of charge) 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. There are certain filings that cannot be eFiled, such as filings containing confidential or proprietary material. These must be submitted to the Secretary by overnight delivery, priority, or certified mail to allow tracking of your filing.

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, appearing to read "Rosemary Chiavetta". The signature is fluid and cursive, with the first name being particularly prominent.

Rosemary Chiavetta
Secretary