



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

IN REPLY PLEASE
REFER TO OUR FILE

July 13, 2023

A-2023-3040335

TO ALL PARTIES OF RECORD

Application of West Penn Power Company for approval to alter the public crossing (DOT 505 753 D) by installing a fiber optic cable where Grant Street crosses, at grade, three (3) tracks of Buffalo & Pittsburgh Railroad located in the Borough of Johnsonburg, Elk County.

To Whom It May Concern:

By application filed with the Commission on May 1, 2023, West Penn Power Company on seeks Commission approval to alter the public crossing (DOT 505 753 D) where Grant Street crosses, at grade, three (3) tracks of Buffalo & Pittsburgh Railroad located in the Borough of Johnsonburg, Elk County.

West Penn Power Company proposes to install a new all-dielectric self-supporting fiber optic cable over the subject crossing. The installation will provide a minimum vertical clearance of twenty-seven feet (27') above the top of rail.

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

In its application, West Penn Power Company states that the proposed improvements to West Penn Power Company's facilities are necessary to support high-speed communications for substation relay and supervisory control and data acquisition protection devices located in West Penn Power's Paper City and Willamette substations. West Penn Power Company will be directed to perform the necessary installation, provide for maintenance and protection of highway and pedestrian traffic during installation and accept future maintenance responsibility for its facilities, at its sole cost and expense. The cost of the project is anticipated to be approximately \$5,000.

All work is to be performed in accordance with the plans entitled: "PROFILE SHEET R-13658," consisting of one (1) sheet submitted to the Commission with the subject application.

West Penn Power Company has served a copy of the application and plans on Pennsylvania Department of Transportation, Buffalo & Pittsburgh Railroad, Johnsonburg Municipal Authority, Zito Media LP, Jones Township Municipal Authority, National Fuel Gas, Pin Oak Energy Partners LLC and the Borough of Johnsonburg. Elk County was omitted as a party of record and were not served a copy of the plans. All parties in interest were queried by letter sent by electronic mail on May 19, 2023, as to any objection to the subject application and plans. None of the parties have responded with any objection to the subject application or plans. Elk County will be added as a party of record by this secretarial letter.

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.

Upon full consideration of the matters involved, we find that a hearing is not necessary and that a Secretarial Letter may be issued approving the application.

The Commission issues this Secretarial Letter in accordance with Section 2702 of the Public Utility Code and finds that the alteration of the crossing is necessary and proper for the service, accommodation, convenience or safety of the public.

The application of West Penn Power Company is approved as herein directed:

1. The caption of the subject proceeding is hereby revised as shown herein.
2. Elk County be added as a party of record to this proceeding.
3. The crossing (DOT 505 753 D) where Grant Street crosses, at grade, three (3) tracks of Buffalo & Pittsburgh Railroad located in the Borough of Johnsonburg, Elk County, be altered generally in accordance with the installation plan entitled: "PROFILE SHEET R-13658," consisting of one (1) sheet provided to the Commission on May 1, 2023; which plan is made part hereof and is hereby approved except insofar as it may relate to the division of work, deletion of work, or the allocation of costs and expenses incident to the installation of the project.
4. West Penn Power Company, at its sole cost and expense, furnish all material and perform all work necessary to install a new all-dielectric self-supporting fiber optic cable over the subject crossing, all in accordance with the approved plan and this Secretarial Letter.
5. West Penn Power Company, at its sole cost and expense, furnish all material and perform all work necessary to establish and maintain any detours or traffic controls that may be required to properly and safely accommodate highway and pedestrian traffic during the time the crossing is being altered.

6. Any relocation of, changes in and/or removal of any adjacent structures, equipment or other facilities of any non-carrier public utility, other than West Penn Power Company, which may be required as incidental to the alteration of the crossing, be made by said public utility at its initial cost, and in such a manner as will not interfere with the alteration of the crossing; and such relocated or altered facilities thereafter be maintained by said public utility, at its sole cost and expense.

7. Buffalo & Pittsburgh Railroad, at the sole cost and expense of West Penn Power Company, 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 installed.

8. West Penn Power Company, at its sole cost and expense, furnish all material and perform all work necessary to complete the remainder of the project, and any other ancillary features of the project, generally in accordance with the approved plans and this Secretarial Letter.

9. The alteration of the crossing be completed on or before July 31, 2024, and that on or before said date West Penn Power Company, report in writing the date of actual completion of the work to this Commission and certify to the parties of record and this Commission that the work has been satisfactorily completed in accordance with the approved plans and this Secretarial Letter.

10. West Penn Power Company, at its sole cost and expense, pay all compensation for damages, if any, due to owners of property taken, injured or destroyed by reason of the alteration of the crossing in accordance with this Secretarial Letter.

11. 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 so that the requirements of each of the parties will be provided for and accommodated insofar as possible.

12. West Penn Power Company, cooperate with the non-carrier utilities involved, so that during the alteration of the involved crossing, the facilities of the non-carrier utilities will not be endangered or unnecessarily interrupted.

13. West Penn Power Company, at least seven (7) days prior to the start of work, notify all parties in interest of the actual date on which work will begin.

14. Upon completion of the alteration of the crossing, West Penn Power Company, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain their electric lines and any ancillary facilities installed in accordance with the approved plans and this Secretarial Letter.

15. Upon completion of the alteration of the crossing, Buffalo & Pittsburgh Railroad, at its sole cost and expense furnish all material and perform all work necessary thereafter to maintain its railroad facilities at the crossing, including the flashing-warning lights, gates, tracks, wire lines and all appurtenant equipment and to maintain at all times in a safe, smooth and satisfactory condition the crossing surface for the full width of the roadway located between the rails and for a distance of twenty-four (24) inches beyond the outermost rails, for the full width of the roadway and shoulders; all in accordance with the Manual on Uniform Traffic Control Devices and this Secretarial Letter, and provide Borough of Johnsonburg at least ten (10) business days advance notice when performing any work as directed by this paragraph.

16. Upon completion of the alteration of the crossing, Borough of Johnsonburg, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the highway approach roadways and shoulders to the subject crossing to points twenty-four (24) inches beyond each outside rail in a safe, smooth and satisfactory condition and in addition to maintain the railroad pavement markings, stop lines and (W10-1) railroad advanced warning signs on the approaches thereto, all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter, and provide Buffalo & Pittsburgh Railroad, at least ten (10) business days advance notice when performing any work as directed by this paragraph.

17. Upon completion of the work herein directed, and upon written request from any party of record, this proceeding be scheduled for a hearing at a time and place to be determined by the Commission, for the purpose of taking testimony upon the final allocation of any remaining costs incurred by the non-carrier utility companies and 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 eFiled with the Secretary of the Commission or sent to: Secretary, PA Public Utility Commission, 400 North Street, Harrisburg, PA 17120, and must be filed 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 cursive script that reads "Rosemary Chiavetta". The signature is written in black ink and is positioned above the printed name and title.

Rosemary Chiavetta
Secretary