



Erie | North East | Pittsburgh | Jamestown, NY

Knox McLaughlin Gornall & Sennett, P.C.
120 West Tenth Street | Erie, PA 16501-1461
814-459-2800 | www.kmgslaw.com

Timothy M. Sennett
tsennett@kmgslaw.com

July 19, 2023

VIA ELECTRONIC FILING

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

RE: Protest and Objection for the Application of Department of
Transportation of the Commonwealth of Pennsylvania on behalf of
the Erie-Wester Pennsylvania Port Authority
Docket No. A-2022-3036626

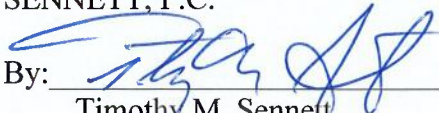
Dear Secretary Chiavetta:

Attached please find Erie-Western Pennsylvania Port Authority's Protest and Objection for the Application of the Department of Transportation of the Commonwealth of Pennsylvania for approval to alter (1) Public At Grade Crossing by the installation of Z Gate at the multi-trail along State Route 4034 and (2) Public At Grade Crossings by Altering the Preemption and Timing where 8th Street and 10th Street cross the track of CSX Transportation, Inc. (DOT Nos. 918 324 S, 524 337 C, 524 335 N) in the City of Erie, Erie County, and Allocation of Costs Incentive thereto . A copy has been served upon all interested parties of record.

If you have any questions, please feel free to contact me at any time.

Very truly yours,

KNOX McLAUGHLIN GORNALL &
SENNETT, P.C.

By: 
Timothy M. Sennett

TMS/smt
Attachment
2445232.v2

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of the Department of Transportation)	Docket No. A-2022-3036626
of the Commonwealth of Pennsylvania for)	
Approval to alter (1) Public At Grade Crossing by)	
the installation of Z Gate at the multi-trail along)	
State Route 4034 and (2) Public At Grade)	
Crossings by Altering the Preemption and Timing)	
where 8th Street and 10th Street cross the track of)	
CSX Transportation, Inc. (DOT Nos. 918 324 S,)	
524 337 C, 524 335 N) in the City of Erie, Erie)	
County, and Allocation of Costs Incentive thereto)	

To The Pennsylvania Public Utility Commission:

The Erie-Western Pennsylvania Port Authority by and through its counsel, Knox McLaughlin Gornall & Sennett, P.C., pursuant to the provisions of 52 Pa. Code §5.51 hereby submits this Protest and Objection to the Petition submitted by CSX Transportation, Inc. (“CSX”) for the Amendment of the Secretarial Letter in the above matter dated February 24, 2023, based on the following:

1. The name and address of the Objector is the Erie-Western Pennsylvania Port Authority, 1 Holland Street, Erie, Pennsylvania 16507.
2. The name and address of the attorney for the Erie-Western Pennsylvania Port Authority is Timothy M. Sennett, Esquire, Knox McLaughlin Gornall & Sennett, P.C., 120 W 10th Street, Erie, Pennsylvania 16501.
3. The Erie-Western Pennsylvania Port Authority is a third class port authority organized and existing under the laws of the Commonwealth of Pennsylvania operating the Port of Erie which includes industrial customers located and served by the industry rail lines which PENNDOT previously filed a track signal and traffic control plans on February 27, 2023, which were certified and approved by the Commission in its Secretarial Letter dated March 23, 2023.

4. CSX has filed a Petition to Amended the Secretarial Letter asserting that it is determined that the industry rail lines at the crossing are no longer needed to serve the Port of Erie.

5. CSX did not, at any time, contact the Erie-Western Pennsylvania Port Authority, nor the tenants and customers served by the industry rail lines to determine their necessity. The Erie-Western Pennsylvania Port Authority asserts the industry rail lines which serve the Port of Erie and the adjacent industrial customers and tenants to the rail lines are an absolute necessity. The rail lines ensure a fully functional Port of Erie to transport commodities which are received by the Port of Erie and also to serve the industry customers and tenants that are located adjacent to this industry rail lines.

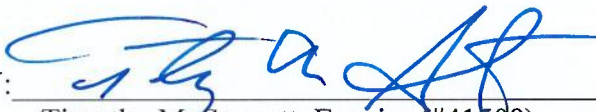
6. The rail lines are a necessity for future development by the Erie-Western Pennsylvania Port Authority of vacant land adjacent to the rail lines.

7. The crossings therefore are absolutely still needed and the rail crossings should not be removed at the crossing with the East Bayfront Parkway (State Route 4034) (DOT 918 324 S).

THEREFORE, the Erie-Western Pennsylvania Port Authority respectfully requests that the Petition to Amend the Secretarial Letter be denied and that the crossing DOT 918 324 S remain in place in accordance with the Secretarial Letter dated February 24, 2023.

Date: July 19, 2023

BY:



Timothy M. Sennett, Esquire (#41509)
Knox McLaughlin Gornall & Sennett, P.C. Attorneys for
Erie-Western Pennsylvania Port Authority
120 West Tenth Street
Erie, Pennsylvania 16501
Telephone (814) 459-2800
Email: tsennett@kmgslaw.com

Application of the Department of Transportation) Docket No. A-2022-3036626
of the Commonwealth of Pennsylvania for)
Approval to alter (1) Public At Grade Crossing by)
the installation of Z Gate at the multi-trail along)
State Route 4034 and (2) Public At Grade)
Crossings by Altering the Preemption and Timing)
where 8th Street and 10th Street cross the track of)
CSX Transportation, Inc. (DOT Nos. 918 324 S,)
524 337 C, 524 335 N) in the City of Erie, Erie)
County, and Allocation of Costs Incentive thereto)

VERIFICATION

I, Martin LaMar, Executive Director of the Erie-Western Pennsylvania Port Authority, in the foregoing proceeding do make the following statements subject to the penalties of Pa.C.S. §4904 relating to unsworn falsification to authorities and do state that as Executive Director I am authorized to make this statement on behalf of the Erie-Western Pennsylvania Port Authority and that the facts set forth in the foregoing Protest and Objection to the Petition to Amend the Secretarial Letter are true and correct to the best of my knowledge, information and belief. To the extent the contents of the pleadings are that of counsel, verifier has relied upon counsel in making this verification.



Martin LaMar

Application of the Department of Transportation) Docket No. A-2022-3036626
of the Commonwealth of Pennsylvania for)
Approval to alter (1) Public At Grade Crossing by)
the installation of Z Gate at the multi-trail along)
State Route 4034 and (2) Public At Grade)
Crossings by Altering the Preemption and Timing)
where 8th Street and 10th Street cross the track of)
CSX Transportation, Inc. (DOT Nos. 918 324 S,)
524 337 C, 524 335 N) in the City of Erie, Erie)
County, and Allocation of Costs Incentive thereto)

CERTIFICATE OF SERVICE

I hereby certify that I served one copy of the foregoing Protest and Objection to the Petition to Amend Secretary Letter on behalf of Erie Western Pennsylvania Port Authority, in the above action, this 19th day of July, 2023, via email addressed to:

<p>Eric W. White, Esquire Assistant Counsel Pennsylvania Department of Transportation Office of Chief Counsel PO Box 8212 Harrisburg, PA 17105 ewwhite@pa.gov</p>	<p>Mark J. Chappell P.E., Chief Utilities, Right of Way and Grad Crossing Division Pennsylvania Department of Transportation P.O. Box 3362 Harrisburg, PA 17105 MARCHAPPEL@pa.gov</p>
<p>Karen L. Cummings Counsel for the Applicant Office of Chief Counsel Pennsylvania Department of Transportation P.O. Box 8212 Harrisburg, PA 17105 kcummings@pa.gov</p>	<p>William M. Sinick, P.E., Supervisor Rail Safety Engineering Section PUC, 3rd Floor P.O. Box 3265 Harrisburg, PA 17105 wsinick@state.pa.us</p>
<p>Thomas J. McClelland, P.E. Assistant District Executive Engineering District 1-0 Department of Transportation 255 Elm Street Oil City, PA 16301 THMCLELLA@pa.gov</p>	<p>Daniel Banister Charter Communications Cable Television 2904 State Road Ashtabula, OH 44044 Daniel.Banister@charter.com</p>
<p>Brian Shank, Chairperson Erie County, County Council Erie County Courthouse, Room 114 140 West 6th Street Erie, PA 16501 bshank@eriecountypa.gov</p>	<p>Mat Kacprowicz Velocity Net Communications, Inc. P.O. Box 9008 Erie, PA 16505 Mat.kacprowicz@velocitynetwork.net</p>

<p>Eric Rodrigues Verizon North LLC 20 E. 10th Street Erie, PA 16501 Eric.rodriques@verizon.com</p>	<p>Chris Beyer Pennsylvania Electric Company P.O. Box 1101 Erie, PA 16508 cbeyer@firstenergycorp.com</p>
<p>Chuck Nelson City Council President City of Erie 626 State Street, Room 104 Erie, PA 16501 cnelson@erie.pa.us</p>	<p>Jason Sayers, Assistant City Engineer City of Erie Bureau of Sewer 626 State Street, Room 400 Erie, PA 16501 jsayers@erie.pa.us</p>
<p>Craig Palmer, P.E. Erie Water Works 240 West 12th Street Erie, PA 16501 cpalmer@eriewaterworks.org</p>	<p>Jason Fleek National Fuel Gas Distribution Corp. P.O. Box 2081 Erie, PA 16501 fleekj@natfuel.com</p>
<p>LeAnn Parmenter, City Engineer City of Erie Bureau of Sewer 626 State Street, Room 400 Erie, PA 16501 lparmenter@erie.pa.us</p>	<p>Benjamin C. Dunlap, Jr., Esquire Nauman Smith Shissler & Hall 200 North 3rd St., 18th Floor Harrisburg, PA 17101 bdunlapjr@nssh.com</p>

Timothy M. Sennett, Esquire (#41509)
Knox McLaughlin Gornall & Sennett, P.C.
Attorneys for Erie-Western Pennsylvania Port
Authority
120 West Tenth Street
Erie, Pennsylvania 16501
Telephone (814) 459-2800
Email: tsennett@kmgslaw.com

2444909.v1