



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

IN REPLY PLEASE
REFER TO OUR FILE

August 2, 2023

C-2022-3033239

TO ALL PARTIES OF RECORD

Formal complaint of the Steel Rivers Council of Governments made on behalf of the Borough of Munhall located in Allegheny County alleging unsafe conditions due to the poor condition of the rubber panel crossing surface (DOT Number Unassigned), where Waterfront Boulevard crosses, at grade, one (1) non-operational track of Union Railroad Company, LLC.

To Whom It May Concern:

This matter is before us by reason of a formal complaint filed with the Commission on May 6, 2022 by the Steel Rivers Council of Governments (COG) on behalf of the Borough of Munhall (Borough) located in Allegheny County alleging unsafe conditions due to the poor condition of the rubber panel crossing surface (DOT Number Unassigned), where Waterfront Boulevard crosses, at grade, one (1) non-operational track of Union Railroad Company, LLC (URR).

In its formal complaint the COG asserts that the railroad crossing presents a dangerous condition to the public and is a threat and immediate danger to the safety and welfare of the public. Photographs attached to its complaint in Exhibit 2 depict a rubber panel high-type crossing surface with shifted, depressed and raised rubber panels. The roadway abutting the rubber panels exhibits cracking, broken asphalt and potholes.

The operating railroad/crossing maintainer was unknown at the time the complaint was submitted; therefore, the COG named several parties in its complaint including CSX Transportation, Inc. (CSXT), Norfolk Southern Railway Corporation (NS), Bristol Metals, LLC (Bristol Metals), United States Steel Corporation (US Steel), Transtar, LLC (Transtar) and URR.

On July 20, 2022, a Commission staff engineer visited the subject crossing and Bristol Metals. Waterfront Boulevard is a curbed two-way asphalt paved roadway with one (1) lane in each direction. A separated bicycle lane and a raised concrete pedestrian sidewalk are present on the north side of the roadway. The roadway at the crossing is oriented generally east-west. The tracks are oriented generally north-south with a wide skew to the roadway and are non-operational. No railroad warning devices or rail-highway signage is present at the crossing. Sometime between the submission of its complaint and the site visit, the rubber panel high-type crossing surface was removed and paved over with asphalt by the Borough, thus mitigating any immediate danger to the traveling public.

Prior to the construction of Waterfront Boulevard, the track existed as an industrial spur extending from a mainline track. The connection from the mainline to the spur was removed sometime between 2005 and 2010 according to Pennsylvania Spatial Data Access aerial imagery. The spur track ends near the property line along the north side of the roadway right-of-way and Bristol Metals.

Following a careful review of Commission records it has been determined that the crossing appears to have never been memorialized by Secretarial Letter or Commission Order and/or was not located within the Commission's records, nor did any party to this proceeding provide any records establishing this crossing as a public crossing.

No public utility, engaged in the transportation of passengers or property, shall, without prior Order of the Commission, construct its facilities across the facilities of any other such public utility or across any highway at grade or above or below grade, or at the same or different levels; and no highway, without like Order, shall be so constructed across the facilities of any such public utility, and, without like Order, no such crossing heretofore or hereafter constructed shall be altered, relocated, suspended or abolished.

By electronic mail dated July 21, 2022, sent to a Commission staff engineer, a representative of Bristol Metals stated they had no immediate plans to reactivate rail service using the existing spur connection.

By electronic mail dated August 5, 2022, a Commission staff engineer requested that CSXT verify it had no interest in the subject crossing. CSXT did not respond to the request and has not filed an answer to the complaint with the Commission.

On August 29, 2022, NS filed an answer with the Commission in response to the complaint. In its answer, NS stated it had no objection to the COG removing the former industrial spur track through the roadway at the Borough's sole cost and expense.

In a letter sent by electronic mail to a Commission staff engineer on September 16, 2022, US Steel averred it disposed of Transtar and its subsidiary URR, and no longer has any direct or indirect interest in property or rail lines owned or controlled by URR.

URR, a subsidiary of Transtar, claims ownership of the real property and/or right-of-way for the rail crossing in the subject complaint. On April 19, 2023, URR and the Borough entered into an agreement allowing the Borough to remove any remaining crossing surface, railroad ties, tracks and any other railroad facility within the highway right-of-way and pave through the former crossing area. The Borough will perform the aforesaid work in conjunction with an upcoming roadway paving project.

By letter-petition dated July 7, 2023, filed with the Commission, the COG requests to withdraw and discontinue its formal complaint in this proceeding with prejudice.

The Commission issues this Secretarial Letter in accordance with Section 2702 of the Public Utility Code.

Upon full consideration of the matters involved in this proceeding, we find that the formal complaint in this matter can be withdrawn, THEREFORE:

1. The caption of the subject proceeding is hereby revised as shown herein.
2. The subject formal complaint of the Steel Rivers Council of Governments on behalf of the Borough of Munhall dated May 6, 2022, be withdrawn with prejudice.
3. Any interested party or entity seeking to establish a public crossing shall make formal application to this Commission for approval prior to construction of any at grade or above or below grade crossing.
4. The case be “CLOSED.”

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,



Rosemary Chiavetta
Secretary