



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

August 3, 2023

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street 2nd FL
Harrisburg, PA 17120

Re: Protest and Objection to the Application of CSX Transportation, Inc.
on behalf of the Commonwealth of Pennsylvania, Department of Transportation
Docket No. A-2023-3041598

Dear Secretary Chiavetta:

Attached please find the ***Commonwealth of Pennsylvania, Department of Transportation's Protest and Objection to the Application of CSX Transportation Inc.*** for approval to abolish four (4) at grade crossings where East Bayfront Parkway (DOT # 918 322 D); Ore Dock Road (DOT # 976 924 B and DOT # 932 473 C; and East Bay Drive (DOT # 918 325 Y) cross at-grade the tracks of CSX Transportation, Inc. in the City of Erie, Erie County, Pennsylvania. A copy has been served upon all interested parties of record.

If you have any questions, please contact the undersigned.

Very truly yours,

A handwritten signature in cursive script that reads "Jillian G. Fellows".

Jillian G. Fellows
Assistant Counsel

cc: Thomas J. McClelland, P.E., Assistant District Executive, Engineering District 1-0
Per Certificate of Service

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

**Application of CSX Transportation, Inc. for :
approval to abolish four (4) at grade crossings :
where East Bayfront Parkway (DOT # 918 322 : A-2023-3041598
D); Ore Dock Road (DOT # 976 924 B and DOT :
932 473 C; and East Bay Drive (DOT # 918 325 :
Y) cross at-grade the tracks of CSX :
Transportation, Inc. in the City of Erie, Erie : Electronically Filed
County, Pennsylvania :
: :
: :**

**COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION'S
PROTEST AND OBJECTION TO THE APPLICATION OF CSX TRANSPORTATION,
INC.**

The Commonwealth of Pennsylvania, Department of Transportation (“PennDOT”), by and through its counsel, Jillian G. Fellows, files this Protest and Objection to the Application of CSX Transportation, Inc. (“CSXT”), pursuant to the provisions of 66 Pa.C.S. § 2702 and 52 Pa. Code § 5.51, objecting to the abolishment of the four (4) at-grade public rail crossings where its tracks cross East Bayfront Parkway (DOT # 918 322 D); Ore Dock Road (DOT # 976 924 B and DOT # 932 473 C); and East Bay Drive (DOT # 918 325 Y) in the City of Erie, Erie County, Pennsylvania and avers as follows:

1. The name and address of the Objector is the Commonwealth of Pennsylvania, Department of Transportation, Thomas J. McClelland, P.E., Assistant District Executive, Engineering District 1-0, 255 Elm St., PO Box 398, Oil City, PA 16301-0398.
2. The name and address of the attorney for the Objector is Jillian G. Fellows, Assistant Counsel, Commonwealth of Pennsylvania, Department of Transportation, Office of Chief Counsel, PO Box 8212, Harrisburg, PA 17105-8212.

3. The Objector is an agency of Commonwealth of Pennsylvania, organized and existing under the Administrative Code of 1929, 71 P.S. § 511, et seq. and generally 36 P.S. § 670 - 401 et seq.

4. PennDOT does not object to the abolishment of the four crossings.

5. PennDOT does not object to performing the work to remove the rails, all warning devices, and resurface the roadway surface at the crossings.

6. However, PennDOT does protest and object to CSXT's proposal that the abolishment of the subject crossings be performed by PennDOT at its sole cost and expense.

7. At no time did PennDOT represent to CSXT, or any other party, that it would abolish the subject crossings at its sole cost and expense.

8. In fact, Ore Dock Road and East Bay Drive are not even state roads and they are not a part of any PennDOT projects. Therefore, PennDOT should not be responsible for any associated costs or expenses to abolish the three crossings that are on the City of Erie's streets.

9. The at-grade crossing at East Bayfront Parkway (DOT # 918 322 D) is also not a part of any PennDOT projects. Therefore, PennDOT neither has the resources to, nor has it ever agreed to, pay for the abolishment of DOT # 918 322 D at its sole cost and expense.

10. PennDOT is in agreement that it will maintain the **state-owned** roadway (East Bayfront Parkway DOT # 918 322 D) at the former crossing at its sole cost and expense following completion of project work.

WHEREFORE, PennDOT respectfully requests the Commission deny CSXT's proposal that PennDOT be responsible at its sole expense and cost for the abolishment of the four (4) crossings in the City of Erie, Erie County, Pennsylvania as described herein.

Respectfully Submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

Jillian G. Fellows

Jillian G. Fellows

Assistant Counsel

Office of Chief Counsel

P.O. Box 8212

Harrisburg, PA 17105-8212

Telephone No.: 717-787-3128

Fax No.: 717-772-2741

jfellows@pa.gov

Dated: August 3, 2023

VERIFICATION

I, Thomas J. McClelland, P.E., Assistant District Executive, Commonwealth of Pennsylvania, Department of Transportation, Engineering District 1-0, hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).

Date: August 3, 2023

Thomas J McClelland 2023.08.03 11:16:38
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Thomas J McClelland
Assistant District Executive

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of CSX Transportation, Inc. for :
approval to abolish four (4) at grade crossings :
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Transportation, Inc. in the City of Erie, Erie : Electronically Filed
County, Pennsylvania :
:
:
:

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing *Commonwealth of Pennsylvania, Department of Transportation’s Protest and Objection to the Application of CSX Transportation Inc.* dated August 3, 2023, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service by Electronic Mail:

Benjamin C. Dunlap, Jr., Esquire
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Service by US Mail

Craig Palmer Erie Water Works 340 W. Bayfront Parkway Erie, PA 16507 cpalmer@eriewaterworks.org	David Humes City of Erie 626 State Street Erie, PA 16501 DHumes@Erie.PA.US
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Respectfully Submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

/s/ Erica Smith-Simmons

Erica Smith-Simmons, Legal Assistant to
Jillian G. Fellows
Assistant Counsel
Office of Chief Counsel
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Telephone No.: 717-787-3128
Fax No.: 717-772-2741

Dated: August 3, 2023