



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

IN REPLY PLEASE
REFER TO OUR FILE

August 29, 2023

A-2023-3041781

TO ALL PARTIES OF RECORD

Application of Windstream D&E, Inc. for approval of the alteration of the crossing where Redwood Avenue (T-410) crosses, at grade, a single track of Buffalo & Pittsburgh Railroad, Inc. (DOT 528 238 T) by the installation of an aerial fiber optic cable in Jay Township, Elk County.

To Whom It May Concern:

By application received by the Commission on July 5, 2023, and revised July 18, 2023, Windstream D&E, Inc. seeks Commission approval to alter the at-grade crossing (DOT 528 238 T) by the installation of an aerial fiber optic line where Redwood Avenue (T410) crosses, at-grade, a single track of Buffalo & Pittsburgh Railroad, Inc. located in Jay Township, Elk County.

The new aerial fiber optic line will be attached to existing West Penn Power Company poles. Windstream D&E, Inc. has stated that it has received permission from West Penn Power Company to attach their new aerial fiber optic wire, by overlashing to an existing cable, onto their poles. The new aerial cable will provide a minimum clearance of 27-feet from 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, Windstream D&E, Inc. states that the proposed cable is necessary to accommodate customer growth and maintain system integrity. Windstream D&E, Inc. 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 the new wire, at its sole cost and expense. The cost of the project is anticipated to be a maximum of \$10,000.

All work is to be performed in accordance with the sketch plan entitled: "RR PERMIT REDWOOD AVE" consisting of two (2) sheets submitted to the Commission with the revised application on July 18, 2023.

Windstream D&E, Inc. has served a copy of the application and plan on Elk County, Benezette Township, First Energy (West Penn Power Company), Buffalo & Pittsburgh Railroad, Inc. (Genesee and Wyoming, Inc.), and the Pennsylvania Department of Transportation. All parties in interest listed above were queried by letter dated July 25, 2023, sent via email 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. Jay Township was also supplied with a copy of the application and 20-day letter at a later date, and also did not respond with any objections.

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 Windstream D&E, Inc. is approved as herein directed:

1. The caption of the subject proceeding is hereby revised as shown herein.
2. The Pennsylvania Department of Transportation District 2-0 be added as a party of record to this case.
3. The Township of Jay, in Elk County, be added as a party of record to this case.
4. The crossing where Redwood Avenue (T-410) crosses, at grade, a single track of Buffalo & Pittsburgh Railroad, Inc. (DOT 528 238 T) in the Township of Jay, Elk County be altered generally in accordance with the sketch plan entitled: "RR PERMIT REDWOOD AVE" consisting of two (2) sheets submitted to the Commission on July 18, 2023; which plans are made part hereof and are hereby approved except insofar as they may relate to the division of work, deletion of work, or the allocation of costs and expenses incident to the installation of the project.
5. Windstream D&E, Inc. at its sole cost and expense, furnish all material and perform all work necessary to alter the crossing by the installation of a new aerial fiber optic line by overlashing an existing line within the right-of-way of the highway where Redwood Avenue (T410) crosses, at grade, track of Buffalo & Pittsburgh Railroad, Inc., all in accordance with the approved plan and this Secretarial Letter.

6. Windstream D&E, Inc., 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.

7. Any relocation of changes in and/or removal of any adjacent structures, equipment, or other facilities of any non-carrier public utility, other than Windstream D&E, Inc. 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.

8. Buffalo & Pittsburgh Railroad, Inc., at the sole cost and expense of Windstream D&E, Inc., 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.

9. Windstream D&E, Inc., 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 plan and this Secretarial Letter.

10. The alteration of the crossing be completed on or before August 31, 2024, and that on or before said date Windstream D&E, Inc., 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 plan and this Secretarial Letter.

11. Windstream D&E, Inc., 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.

12. 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.

13. Windstream D&E, Inc. cooperate with the non-carrier utilities involved, so that during the alteration of the subject crossing, the facilities of the non-carrier utilities will not be endangered or unnecessarily interrupted.

14. Windstream D&E, Inc., 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.

15. Upon completion of the alteration of the crossing, Windstream D&E, Inc., at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the aerial fiber optic wire and any ancillary facilities installed in accordance with the approved plan and this Secretarial Letter.

16. Upon completion of the alteration of the crossing, Buffalo & Pittsburgh Railroad, Inc., at its sole cost and expense, furnish all material and perform all work necessary to maintain its railroad facilities and maintain at all times in a smooth and satisfactory condition the asphalt crossing surface at the subject crossing to points 24-inches beyond each outside rail and provide the Township of Jay at least ten (10) business days advance notice when performing any work as directed by this paragraph.

17. Upon completion of the alteration of the crossing, Township of Jay, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its highway approach roadways of the subject crossing up 24-inches beyond each outside rail and, maintain the grade crossing advance warning signs, stop lines and pavement markings, if required, all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter and provide Buffalo & Pittsburgh Railroad, Inc. at least ten (10) business days advance notice when performing any work as directed under this paragraph.

18. 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, appearing to read "Rosemary Chiavetta".

Rosemary Chiavetta
Secretary