



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

IN REPLY PLEASE
REFER TO OUR FILE

September 8, 2023

A-2023-3041679

TO ALL PARTIES OF RECORD

Application of the Department of Transportation of the Commonwealth of Pennsylvania for approval to alter the public crossing (DOT 517 768 C) by the installation of new warning devices and crossing surface, where Reese Street (T- 445) crosses, at grade, a track of East Penn Railroad LLC, in New Garden Township, Chester County all in accordance with the Federal Grade Crossing Program and the allocation of cost incidental thereto.

To Whom It May Concern:

This matter is before us by reason of an application filed July 10, 2023, by the Pennsylvania Department of Transportation (Department) seeking Commission approval for the alteration of the public crossing (DOT 517 768 C) by the installation of new warning devices and crossing surface, where Reese Street (T- 445) crosses, at grade, a track of East Penn Railroad LLC (East Penn), in New Garden Township, Chester County, all in accordance with the Federal Grade Crossing Program and the allocation of costs incident thereto.

Upon receipt of the application, a field investigation and conference was arranged by a Commission staff engineer and held on August 10, 2023. Attending the field conference were representatives from the Department, East Penn and New Garden Township. Although invited to the field conference and notified of the time and place, no representatives participated in the meeting from Aqua, Verizon Pennsylvania LLC, Newtown Artesian Water Company, Comcast Cable Communications, Aqua Pennsylvania, Inc., Chester Water Authority, Frontier Communications, Everstream Solutions, LLC, Eastern Shore Natural Gas Company, Colonial Pipeline Company, Crown Castle Fiber, Williams Gas Pipe Line-Transco or Chester County.

Presently, the crossing consists of one (1) track of East Penn with a timber and asphalt crossing surface. Reese Street is a two-lane asphalt roadway. There are no sidewalks. The warning facilities at the crossing consist of crossbucks. There are faded stop lines and grade crossing pavement markings and Grade Crossing Advance Warning (W10-1) signs on both approaches to the crossing.

At the field conference, the Department explained the project. At the sole cost and expense of the Department, East Penn will remove the crossbucks and install new post-mounted

gate-ready flashing-light LED warning signals and a bell on each approach to the crossing and add a jury-arm extended out to an additional pair of flashing-lights to the warning signal in the north-western quadrant. In addition, East Penn, at its initial cost and expense, will furnish all material and do all work necessary to remove the existing timber and asphalt crossing surface, and install a new asphalt crossing surface for the full width of the roadway and shoulders. All parties of the diagnostic team discussed the proposed safety improvements at the subject crossing.

The Department has agreed to reimburse East Penn up to 20% of the total costs of the improvement project toward construction of the new crossing surface and for providing maintenance and protection of traffic during construction.

East Penn agreed to maintain its facilities at the crossing including the crossing surface, the new automatically operated flashing-light signals, bell and all appurtenant equipment installed in accordance with this Secretarial Letter.

New Garden Township agreed to maintain the Grade Crossing Advance Warning signs (W10-1), stop lines, pavement markings and approach roadways, all in accordance with this Secretarial Letter.

All work is to be performed in accordance with the situation plan entitled: "EXHIBIT C," consisting of one (1) sheet numbered one of six (1 of 6) and the circuitry plan entitled "EXHIBIT C" consisting of five (5) sheets numbered two to six of six (2 to 6 of 6), attached to the subject application submitted on July 10, 2023.

The Commission hereby establishes its jurisdiction limits at the subject crossing as the area within the confines of the railroad right-of-way and the highway right-of-way along Reese Street (T-445).

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.

The Department will provide funding through the Federal Highway Grade Crossing Safety Program. The project will be funded 100% by federal funds. The estimated total cost for the project is \$277,016.00.

It does not appear that any facilities of any non-carrier public utility will be affected by the alteration of this crossing.

Upon full consideration of the matters involved and inasmuch as no objection has been filed with the Commission, we find that a Secretarial Letter can be issued approving the application without a formal hearing.

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

The application of Pennsylvania Department of Transportation is approved as herein directed:

1. The caption of the subject proceeding is hereby revised as shown.
2. The public crossing (DOT 517 768 C) where Reese Street (T- 445) crosses, at grade, a track of East Penn Railroad LLC, in New Garden Township, Chester County, be altered as herein directed.
3. All work is to be performed in accordance with the situation plan entitled: "EXHIBIT C," consisting of one (1) sheet numbered one of six (1 of 6) and the circuitry plan entitled "EXHIBIT C" consisting of five (5) sheets numbered two to six of six (2 to 6 of 6), attached to the subject application submitted on July 10, 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.
4. East Penn Railroad LLC, at the sole cost and expense of Pennsylvania Department of Transportation, furnish all material and do all work necessary to alter the subject crossing by removing the crossbucks, installing new post-mounted gate-ready flashing-light LED warning signals and a bell on each approach to the crossing and adding a jury-arm extended out to an additional pair of flashing-lights to the warning signal in the north-western quadrant; all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices, the approved plans and this Secretarial Letter.
5. East Penn Railroad LLC, at its initial cost and expense, furnish all material and do all work necessary to alter the subject crossing by 1) removing the existing asphalt crossing surface at the crossing, including the rails, ties and ballast; 2) installing a new asphalt crossing surface for the full width of the roadway and shoulders; and 3) restoring the approach pavement throughout the entire width of the roadway including the shoulder areas with bituminous material to provide a smooth and satisfactory transition, all in accordance with the roadway construction specifications of New Garden Township and this Secretarial Letter.
6. Pennsylvania Department of Transportation will reimburse East Penn Railroad LLC, up to 20% of the total costs of the project toward construction of the new crossing surface in accordance with Paragraph Number 5 of this Secretarial Letter. Those total project costs exclude the crossing surface work and include all design, construction (materials and labor), construction inspection, and traffic control necessary for the installation of the warning devices.
7. East Penn Railroad LLC, at the sole cost and expense of Pennsylvania Department of Transportation, furnish all material and perform all work necessary to establish and maintain any detours or traffic controls at the subject crossing that may be required to properly and safely accommodate highway and pedestrian traffic during the time the crossing is being altered.
8. East Penn Railroad LLC, at their initial cost and expense, furnish and maintain any flagmen, watchmen, inspectors and/or engineering services, which may be necessary to protect and safeguard its railroad operations or facilities during the time the project is being constructed.

9. East Penn Railroad LLC, pay all compensation for damages due to the owners of any property taken, injured or destroyed by reason of the alteration of the subject crossing in accordance with this Secretarial Letter.

10. Any relocation of, changes in and/or removal of any adjacent structures, equipment or other facilities of any non-carrier public utility company, which may be required as incidental to the alteration of the crossing, be made by said public utility at its initial cost and expense and in such 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.

11. East Penn Railroad LLC, notify all parties of record and local emergency management services at least ten (10) days prior to performing any work 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. All work necessary to complete the alteration of the subject crossing be done in a manner satisfactory to this Commission on or before September 30, 2025, and that on or before said date, East Penn Railroad LLC, report the date of actual completion of the work.

14. All costs, which are to be reimbursed by the Department of Transportation consistent with this Secretarial Letter, shall be reimbursed pursuant to the provisions of 23 C.F.R. Parts 140 and 646. The aforesaid Federal reimbursement shall not supersede, delay or, in any manner, postpone the effect of any paragraph contained in this or any related Secretarial Letter or Order.

15. Upon completion of the alteration of the subject crossing, East Penn Railroad LLC, 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 post-mounted flashing-light LED warning signals, jury-arm, bells, gate ready mechanisms and all appurtenant equipment, and to maintain at all times in a smooth and satisfactory condition the railroad crossing surface located between the rails and for a distance of twenty-four (24) inches beyond the outermost rails; and provide at least ten (10) business days of advance notice to New Garden Township, when performing any work that may affect their facilities, as directed by this paragraph.

16. Upon completion of the alteration of the subject crossing, New Garden Township, at its sole cost and expense, furnish all material and do all work necessary to maintain the highway approaches to the subject crossing to points twenty-four (24) inches beyond each outside rail and, in addition, maintain the pavement markings, grade crossing advance warning (W10-1) signs and stop lines on the approaches thereto, in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter; and provide at least ten (10) business days of advance notice to East Penn Railroad LLC, when performing any work that may affect their facilities, 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 costs incurred by the public 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.

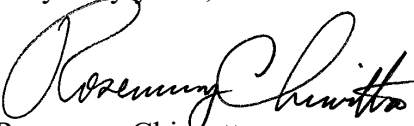
All formal documents must be filed with the Secretary of the Commission. Documents must be eFiled, mailed or hand delivered. All filings should be addressed to the Secretary, PA Public Utility Commission, 400 North Street, Harrisburg, PA 17120. The Commission will not accept documents delivered by fax 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,



Rosemary Chiavetta
Secretary