



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

September 19, 2023

IN REPLY PLEASE
REFER TO OUR FILE
A-2023-3042096

TO ALL PARTIES OF RECORD

Application of the Pennsylvania Department of Transportation for approval to alter the public grade crossing by the installation of new warning devices and crossing surface, where Unionville/Wawaset Road (SR 0842) crosses, at grade, the tracks of East Penn Railroad LLC (DOT # 589 473 H), in Pocopson Township, Chester County, all in accordance with the Federal Grade Crossing Program and the allocation of cost incidental thereto.

To whom it may concern:

By application filed with the Commission on August 8, 2023, the Pennsylvania Department of Transportation (PennDOT) is seeking Commission approval to alter the subject crossing by the installation of new active warning devices and crossing surface where Unionville/Wawaset Road (SR 0842) crosses, at grade, the tracks of East Penn Railroad LLC in Pocopson Township, Chester County.

Upon receipt of the application, a field investigation and conference was arranged by a Commission staff engineer and held at the site of the crossing on September 12, 2023, with representatives of PennDOT, East Penn Railroad, and Pocopson Township in attendance. The parties in attendance at the field conference have agreed that the alteration of the grade crossing could be carried out as proposed and no objections were raised. PennDOT has served a copy of the current application to all parties in interest. None of the parties in interest have responded with any objection to the subject application.

It was noted that Unionville/Wawaset Road (SR 0842) is a two (2) lane asphalt roadway with asphalt paved shoulders. The crossing surface currently consists of asphalt and rail seal. Flashing-light warning signals are on each approach. There are advance warning signs, pavement markings and stop lines on the approaches to the crossing. There are no sidewalks present at the crossing. Improvements to the crossing surface will be implemented by East Penn Railroad as part of this project.

East Penn Railroad, at the sole cost and expense of PennDOT, proposes to replace existing active warning devices with new railroad warning devices, circuitry, and install a high-type (concrete tub) crossing surface. East Penn Railroad will be directed to maintain its facilities and the crossing surfaces in a smooth and satisfactory condition.

Pennsylvania Department of Transportation will be directed to maintain highway approaches through the crossing and maintain stop lines, pavement markings and advance warning signs.

All work is to be performed in accordance with the situation and circuitry plans entitled: "EAST PENN RAILROAD CROSSING WARNING DEVICES, UNIONVILLE/WAWASET ROAD – DOT# 589 473 H, WEST CHESTER, CHESTER COUNTY, PA", consisting of six (6) sheets submitted on August 8, 2023.

The Department avers that a copy of the application including the situation and circuitry plans and has been served on all parties of interest and no party has filed any objection to the project.

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 Commission hereby establishes its jurisdictional limits at the subject crossings as the area within the confines of the railroad right-of-way and the highway right-of-way.

The project will utilize 100% Federal funds at a total estimate of \$396,621. The construction of the project will be funded through the Federal Highway Grade Crossing Safety Program, disbursed through the Pennsylvania Department of Transportation. The funding is capped at \$396,621 for the total construction cost of the improvement project. Any construction costs above \$396,621 will be borne by East Penn Railroad.

Any non-carrier public utility companies affected by this improvement project will be directed to initially bear the cost for any alteration or relocation of their facilities. Our Secretarial Letter will provide the non-carrier public utility companies with the opportunity to determine at a later date whether they will seek reimbursement for their project costs and if a hearing is needed to resolve any remaining issues.

Upon full consideration of the matters involved and inasmuch as none of the parties offered any objection to the Pennsylvania Department of Transportation proposed project, 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 crossings is necessary and proper for the service, accommodation, convenience and 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 herein.

2. The crossing where Unionville/Wawaset Road (SR 0842) (DOT # 589 473 H) crosses, at grade, the tracks of East Penn Railroad LLC in Pocopson Township, Chester County be altered by the installation of new active warning devices and high type (concrete tub) crossing surface.

3. The situation and circuitry plans entitled: "EAST PENN RAILROAD CROSSING WARNING DEVICES, UNIONVILLE/WAWASET ROAD – DOT# 589 473 H, WEST CHESTER, CHESTER COUNTY, PA" consisting of six (6) sheets, and filed with the Commission on August 8, 2023, which plans are made part hereof and is 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 its initial cost and expense, furnish all material and do all work necessary to alter the subject crossing by the installation of new flashing-light warning devices, circuitry, and high type crossing surface in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter.

5. East Penn Railroad LLC, at its initial cost and expense, furnish all material and do all work necessary to establish and maintain any detours or traffic control that may be necessary to properly and safely accommodate vehicular, pedestrian and railroad traffic during the time the crossings are being altered.

6. East Penn Railroad LLC, at its initial cost and expense, furnish and maintain watchman, flagmen and/or inspectors that may be deemed necessary to protect and safeguard its railroad operations during the time the facilities are being constructed.

7. Any relocation of, changes in and/or removal of any adjacent structures, equipment or any other facilities of any public utility other than East Penn Railroad LLC located within the limits of the highway, within the Commission's jurisdiction, be made by said public utility at its initial cost and expense, and in such a manner as will not interfere with the construction of the improvement, and said relocated or altered facilities thereafter be maintained by said public utility, at its sole cost and expense.

8. 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 said requirements of each of the parties will be provided for and accommodated insofar as possible.

9. East Penn Railroad LLC, at least fourteen (14) days prior to the start of work, notify all parties in interest of the actual date on which work will begin.

10. All work necessary to complete this construction shall be done in a manner satisfactory to this Commission on or before December 31, 2024, and that on or before said date, Pennsylvania Department of Transportation report in writing to the Commission the date of actual completion of the work.

11. East Penn Railroad LLC pay all compensation for damages, if any, due to owners of property taken, injured or destroyed by reason of the construction of the improvement in accordance with this letter.

12. 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 CFR 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.

13. Pennsylvania Department of Transportation, having agreed to do so reimburse East Penn Railroad LLC an amount not to exceed \$396,621 in compliance with numbered paragraphs 4, 5, and 6 of this Secretarial Letter.

14. East Penn Railroad LLC bear the remaining costs in excess of \$396,621 as its share of total costs incurred in compliance with numbered paragraphs 4, 5, and 6 of this Secretarial Letter.

15. Upon completion of the alteration of the crossing, East Penn Railroad LLC, at their sole cost and expense, furnish all material and perform all work necessary thereafter to maintain its railroad facilities at the subject crossing, including warning devices and all appurtenant equipment, and maintain at all times in a smooth and satisfactory condition, the high-type crossing surface, all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter, and provide the Pennsylvania Department of Transportation at least ten (10) business days advance notice when performing any work that may affect their facilities, as directed by this paragraph.

16. Upon completion of the alteration of the crossing, the Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the highway approach roadway of the subject crossing up to the high-type concrete crossing surface and in addition, 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 East Penn Railroad LLC at least ten (10) business days advance notice when performing any work that may affect their facilities as directed by this paragraph.

17. Upon completion of the construction of the proposed project, each non-carrier public utility company and municipal authority, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain its respective facilities, existing or altered, located within the limits of the improvement.

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 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.

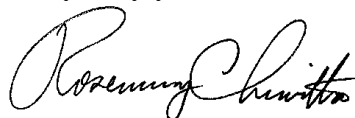
All formal documents must be filed with the Secretary of the Commission. Documents must be eFiled, mailed or hand delivered. All filings should be addressed to the Secretary, PA Public Utility Commission, 400 North Street, Harrisburg, PA 17120. The Commission will not accept documents delivered by fax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



Rosemary Chiavetta
Secretary