



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

IN REPLY PLEASE
REFER TO OUR FILE

December 22, 2023

A-2023-3043963

TO ALL PARTIES OF RECORD

Application of Gigapower, LLC for approval of the alteration of the crossing where Poplar Street crosses, at grade, track owned by Delaware Lackawanna Railroad (DOT 249 653 T) by the installation of an aerial fiber optic cable located in the City of Scranton, Lackawanna County.

To Whom It May Concern:

By application filed with the Commission on October 30, 2023, Gigapower LLC seeks Commission approval to alter the public crossing (DOT 249 653 T) by installation of an aerial fiber optic cable where Poplar Street crosses, at grade, the track of Delaware & Lackawanna Railroad, located in the City of Scranton, Lackawanna County.

Gigapower LLC proposes to install a new aerial fiber optic cable by attaching it to an existing line, using a new cable lasher and cable guide, within the joint right of way of Poplar Street and the Delaware & Lackawanna Railroad. The existing line provides 28.39-feet of clearance from the top of rail to the cable, and with the addition of the proposed cable lasher which adds an additional foot of height, the proposed line will provide a minimum clearance of 29.39-feet from the top of rail to the new cable.

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, Gigapower LLC states that the proposed installation is necessary to provide the residents of the City of Scranton with access to high quality fiber internet. Gigapower LLC 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 facilities, at its sole cost and expense. The cost of the project is anticipated to be approximately \$10,000.00.

All work is to be performed in accordance with the plan entitled: "4001PC RR CROSSING" consisting of four (4) sheets submitted to the Commission with the application.

Gigapower LLC has served a copy of the application and plan on Delaware & Lackawanna Railroad, City of Scranton, PPL Electric Corporation, Verizon Pennsylvania, Inc., North Penn Long Distance Company, Comcast, ION Holdco LLC, Teleport Communications America LLC, CTSI LLC, Zito Media/Zito West Holding, XO Communications Inc., and the Pennsylvania Department of Transportation. All parties in interest were queried by letter dated November 9, 2023, sent via electronic mail, as to any objection to the subject application and plan. None of the parties have responded with any objection to the subject application or plan.

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 Gigapower LLC is approved as herein directed:

1. The caption of the subject proceeding is hereby revised as shown herein.
2. The crossing where Poplar Street crosses, at grade, the track of Delaware & Lackawanna Railroad (DOT 249 653 T) in the City of Scranton, Lackawanna County be altered generally in accordance with the installation plan entitled: "4001PC RR CROSSING" consisting of four (4) sheets provided to the Commission on October 30, 2023; which plan is made part hereof and is hereby approved except insofar as it may relate to the division of work, deletion of work, or the allocation of costs and expenses incident to the installation of the project.
3. Gigapower LLC, at its sole cost and expense, furnish all material and perform all work necessary to alter the crossing by the installation of an aerial fiber optic cable within the right-of-way of the highway where Poplar Street crosses, at grade, the track of Delaware & Lackawanna Railroad, all in accordance with the approved plan and this Secretarial Letter.
4. Gigapower LLC, 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.
5. Any relocation of, changes in and/or removal of any adjacent structures, equipment or other facilities of any non-carrier public utility, other than Gigapower LLC, 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.

6. Delaware & Lackawanna Railroad, at the sole cost and expense of Gigapower LLC, 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.

7. Gigapower LLC, 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.

8. The alteration of the crossing be completed on or before December 31, 2024, and that on or before said date Gigapower LLC, 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.

9. Gigapower LLC, 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.

10. 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.

11. Gigapower LLC cooperate with the non-carrier utilities involved, so that during the alteration of the involved crossing, the facilities of the non-carrier utilities will not be endangered or unnecessarily interrupted.

12. Gigapower LLC 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.

13. Upon completion of the alteration of the crossing, Gigapower LLC at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain their aerial fiber optic cable and any ancillary facilities installed in accordance with the approved plan and this Secretarial Letter.

14. Upon completion of the alteration of the crossing, Delaware & Lackawanna Railroad, at its sole cost and expense, furnish all material and perform all work necessary to maintain its railroad facilities at the subject crossing, including the warning devices and all appurtenant equipment, and maintain at all times in a smooth and satisfactory condition of the crossing surface located between the rails and for a distance of twenty-four (24) inches beyond the outermost rails, all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter; and provide the City of Scranton at least ten (10) business days advance notice when performing any work as directed under this paragraph.

15. Upon completion of the alteration of the crossing, the City of Scranton, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its highway approach roadways to the subject crossing to points twenty-four (24) inches beyond each outside rail 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 Delaware & Lackawanna Railroad at least ten (10) business days advance notice when performing any work as directed by this paragraph.

16. 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, reading "Rosemary Chiavetta". The signature is written in black ink and is positioned above the printed name and title.

Rosemary Chiavetta
Secretary