



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

IN REPLY PLEASE
REFER TO OUR FILE

February 5, 2024

A-2023-3044213

TO ALL PARTIES OF RECORD

Application of PECO Energy Company for approval of the alteration of the crossing where Chestnut Street crosses, above grade, track of National Railroad Passenger Corporation (DOT 531 316 B) by the removal of a de-energized aerial electric line located in the Borough of Downingtown, Chester County.

To Whom It May Concern:

By application filed with the Commission on November 13, 2023, PECO Energy Corporation (PECO) seeks Commission approval to alter the public crossing (DOT 531 316 B) by removal of a de-energized aerial electric line where Chestnut Street crosses, above grade, five (5) tracks of National Railroad Passenger Corporation (AMTRAK) in the Borough of Downingtown, Chester County.

PECO proposes to remove the existing deenergized 4kV aerial conductor line from existing utility poles located within the joint right of way of Chestnut Street and AMTRAK.

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, PECO states that the proposed removal is necessary because the de-energized line is no longer needed. PECO will be directed to perform the necessary removal and provide maintenance and protection of highway and pedestrian traffic during the removal at its sole cost and expense.

PECO has served a copy of the application and preliminary plan on AMTRAK, Chester County, the Borough of Downingtown, and the Pennsylvania Department of Transportation. All parties in interest were queried by letter dated December 14, 2023, sent via electronic mail, as to any objection to the subject application and plan. Upon receipt, AMTRAK requested the applicant add some additional information and notes to the plan attached to the application. Due to ongoing coordination between PECO and AMTRAK, a final plan will be submitted to this Commission for approval and to all parties for review prior to the start of construction. In addition, it was discovered that Norfolk Southern Railway Company has property in the area of the project and was not initially included as a party of record in the application. This Secretarial Letter will therefore add Norfolk Southern as a party of record to this case.

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 PECO Energy Company is approved as herein directed:

1. The caption of the subject proceeding is hereby revised as shown herein.
2. Norfolk Southern Railway Company be added as a party hereto.
3. PECO Energy Company, at its sole cost and expense, and prior to the start of construction, submit final construction plans for the subject alteration to all parties of record for review and to this Commission for approval.
4. PECO Energy Company, at its sole cost and expense, furnish all material and perform all work necessary to alter the crossing (DOT 531 316 B) where Chestnut Street crosses, above grade, five (5) tracks of National Railroad Passenger Corporation located in Downingtown Borough, Chester County, by the removal of a deenergized aerial 4kV conductor line, attached to existing poles, within the joint right of way of the subject crossing, in accordance with the approved plan and this Secretarial Letter.
5. PECO Energy Company, 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.

6. Any relocation of, changes in and/or removal of any adjacent structures, equipment or other facilities of any non-carrier public utility, other than PECO Energy Company, 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.

7. National Railroad Passenger Corporation , at the sole cost and expense of PECO Energy Company, 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.

8. PECO Energy Company, 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.

9. The alteration of the crossing be completed on or before January 31, 2025, and that on or before said date PECO Energy Company, 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.

10. PECO Energy Company, 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.

11. 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.

12. PECO Energy Company 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.

13. PECO Energy Company 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.

14. Upon completion of the alteration of the crossing, PECO Energy Company at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain any remaining facilities in place after the removal of the aerial line, if applicable, in accordance with the approved plan and this Secretarial Letter.

15. That upon completion of the construction of the proposed project, National Railroad Passenger Corporation, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain its railroad facilities at the subject crossing, all in accordance with this Secretarial Letter and Commission Order A-2009-2122459, and provide Norfolk Southern Railway Company and Downingtown Borough at least ten (10) business days advanced notice when performing any work as directed by this paragraph that may affect their facilities.

16. That upon completion of the construction of the proposed project, Norfolk Southern Railway Company, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain its railroad facilities at the subject crossing, if applicable, all in accordance with this Secretarial Letter and Commission Order A-2009-2122459, and provide National Railroad Passenger Corporation and Downingtown Borough at least ten (10) business days advanced notice when performing any work as directed by this paragraph that may affect their facilities.

17. That upon completion of the construction of the proposed project, the Borough of Downingtown, furnish all material and perform all work necessary thereafter to maintain the bridge and approach roadways, all in accordance with this Secretarial Letter and Commission Order A-2009-2122456, and provide National Railroad Passenger Corporation and Norfolk Southern Railway Company at least ten (10) business days advanced notice when performing any work as directed by this paragraph that may affect their facilities.

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 black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta
Secretary