



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

IN REPLY PLEASE
REFER TO OUR FILE

February 12, 2024

A-2023-3041994

TO ALL PARTIES OF RECORD

Application of Sandy Township for approval to alter the public crossing (DOT 148 682 Y) by the installation of a shared use pathway where State Route 4017 (Shaffer Road) crosses, at grade, the former track of Buffalo & Pittsburgh Railroad, Incorporated located in Sandy Township, Clearfield County.

To Whom It May Concern:

This matter is before us by reason of an application received by the Commission on August 22, 2023, by Sandy Township (Township) seeking Commission approval to install pedestrian sidewalk across the public crossing (DOT 148 682 Y), where State Route (S.R.) 4017 (Shaffer Road) crosses, at grade, the former track of Buffalo & Pittsburgh Railroad, Incorporated (Railroad) located in Sandy Township, Clearfield County.

In its application, the Township proposes to install pedestrian sidewalk within the highway right of way along S.R. 4017 (Shaffer Road) and avers that the railroad tracks have already been removed from the crossing. The sidewalk will be constructed with funding provided 100% by the Township through their general fund and a Transportation Alternative Set-Aside grant with an estimated construction cost of \$1,005,000. The Township stated in its application that the alteration is necessary to mitigate several known safety concerns involving pedestrians and school age children utilizing the berm along the roadway in the absence of sidewalks. Additionally, the sidewalk will provide a pivotal pedestrian link between recreational facilities, housing, and businesses located between the Township and the City of Dubois.

Upon receipt of the application a field investigation and conference was arranged by a Commission staff engineer and held on November 20, 2023, at the site of the subject crossing. Representatives of the Township, the Railroad, the Pennsylvania Department of Transportation (Department), and Penelec were in attendance. Although notified by letter sent via electronic mail dated October 24, 2023, there were no representatives from Clearfield County, the City of Dubois, Comcast Cable Communications, National Fuel Gas Distribution Corp., Verizon, or Zito Media Communications, LLC in attendance at either meeting.

At the field conference, it was noted that S.R. 4017 (Shaffer Road) is a two (2) lane, bi-directional asphalt paved roadway with a center turning lane and shoulders that crosses (DOT 148 682 Y), at grade, the former track of the Railroad. It was discovered at the field conference that the active railroad warning devices, railroad warning signs, crossing surface, tracks, ties, and ballast had already been removed and the crossing had been repaved. In addition to the railroad facilities having already been removed, the grade crossing advanced warning (W10-1) signs and stop lines on each approach roadway had been removed all without Commission approval.

During the field conference the Department expressed that it was not satisfied with the condition of the repaved crossing surface in relation to its smooth transition to the existing paving on both approach roadways and would be unwilling to accept future maintenance responsibility for the crossing surface until milled and repaved to their satisfaction.

The Township offered to mill, repave, and widen the subject crossing at their sole cost and expense as part of the subject proceeding. During the field conference the Township changed its scope of work from the construction of sidewalk to a shared use pathway. The construction of the shared use pathway will serve as a direct connection between sidewalks on Maple Avenue located to the south of the crossing and the Beaver Meadow Trail located to the west of the crossing. As part of the associated work to construct the pathway, the S.R. 4017 (Shaffer Road) shoulder along the southwest approach to the crossing will be widened to 8-foot, the crossing surface will be milled, repaved and widened to match the widths of the approach roadway and shoulders, and a pathway will be constructed to the west of the crossing on the Railroad's property paralleling the former rail bed. The Township has entered into a lease agreement with the Railroad for the installation of the shared use pathway on the Railroad's property.

Upon satisfactory completion of the milling, repaving and widening of the subject crossing surface the crossing will be suspended. Suspension of the crossing and affirmation of the alterations made to the crossing by the Department and the Railroad will be addressed under a separate Commission proceeding docketed at A-2023-3040997. The parties are reminded that changes in use, railroad structure changes, bridge load posting/closures, alterations and changes in maintenance are matters to be memorialized, affirmed, and approved under Section 2702 of the Pennsylvania Public Utility Code for all Commission jurisdictional bridges and public crossings.

The Township agrees to submit final construction plans and signing and pavement marking plans for the proposed project to each party of record for review and to the Commission for approval. Accordingly, it will be necessary for the Township to do so prior to the start of construction.

The Township agrees to provide for maintenance and protection of highway and pedestrian traffic during the time the work is being performed, at its sole cost and expense.

The Township agrees to: 1) construct a shared use pathway by widening the southwest approach shoulder of S.R. 4017 (Shaffer Road); 2) mill, repave and widen the subject public crossing surface; and 3) construct a shared use pathway on the Railroad's property paralleling the former rail bed, at its sole cost and expense.

The Railroad agrees to furnish and maintain watchmen, flagmen, inspectors, and/or engineering services that may be deemed necessary to protect and safeguard its railroad operations or facilities, at the Township's sole cost and expense.

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

The work associated with the proposed construction of the shared use pathway at the subject crossing was discussed in detail at the field conference with all attending parties of record and none have advised that it objects to the issuance of a Secretarial Letter, prior to hearing, approving the alteration of the crossing.

It does not appear that any facilities of any non-carrier utility will be affected by the associated work at the crossing. Non-carrier public utilities will alter or relocate their facilities at their initial cost and expense, if required.

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 and inasmuch as no objection has been filed with the Commission, we find that a Secretarial Letter can be issued approving the application as herein described 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 crossing is necessary and proper for the service, accommodation, convenience, or safety of the public; THEREFORE:

1. The caption of the subject proceeding is hereby revised as shown herein.
2. The public crossing (DOT 148 682 Y) where State Route 4017 (Shaffer Road) crosses, at grade, the former track of Buffalo & Pittsburgh Railroad, Incorporated located in Sandy Township, Clearfield County, be altered as directed herein.
3. Sandy Township, at its sole cost and expense, and prior to the start of construction, prepare and submit detailed final construction plans and signing and pavement marking plans for the subject crossing to all parties for review and to the Commission for approval.
4. Sandy Township, 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 vehicular and pedestrian traffic during the time the crossing is being altered.
5. Buffalo & Pittsburgh Railroad, Incorporated, at the sole cost and expense of Sandy Township, furnish all material and perform all work necessary to 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 altered.

6. Sandy Township, at its sole cost and expense, furnish all material and perform all work necessary to: 1) construct a shared use pathway by widening the southwest approach shoulder of State Route 4017 (Shaffer Road); 2) mill, repave and widen the subject public crossing surface providing a safe, smooth and satisfactory transition to the existing approach roadway and shoulders; and 3) construct a shared use pathway on Buffalo & Pittsburgh Railroad, Incorporated's property paralleling the former rail bed, all in accordance with Part 9 of the Manual on Uniform Traffic Control Devices, the paving specifications of the Pennsylvania Department of Transportation, and this Secretarial Letter.

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

8. Sandy Township, pay all compensation for damages, if any, due to the owners of property taken, injured, or destroyed by reason of the alteration of the subject crossing in accordance with this Secretarial Letter.

9. 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.

10. Sandy Township, at least seven (7) days prior to the start of work, notify local emergency management services and all parties of record of the actual date on which work will begin.

11. The alteration of the crossing be completed on or before January 31, 2026, and that on or before said date Sandy Township, 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 this Secretarial Letter.

12. This Secretarial Letter is without prejudice to the right of any party to recover part or all of any costs incurred by said party in compliance with the provisions of this Secretarial Letter, in accordance with any lawful agreement between it and any other party.

13. The terms of any agreement established in accordance with this Secretarial Letter shall not preclude the Pennsylvania Public Utility Commission from taking any action necessary to protect the public interest, including but not limited to the reassignment or enforcement of any costs or responsibilities assigned or transferred as a result of this Secretarial Letter.

14. Upon completion of the alteration of the subject crossing, Buffalo & Pittsburgh Railroad, Incorporated, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain any remaining railroad facilities located at the site of the subject public crossing (DOT 148 682 Y), all in accordance with this Secretarial Letter, and provide the Pennsylvania Department of Transportation and Sandy Township at least ten (10) business days advanced notice when performing any work as directed by this paragraph that may affect their facilities.

15. Upon completion of the alteration of the subject crossing, the Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the State Route 4017 (Shaffer Road) roadway and shoulders on the approaches to and through the site of the subject public crossing (DOT 148 682 Y), in a safe, smooth and satisfactory condition, all in accordance with this Secretarial Letter, and provide Buffalo & Pittsburgh Railroad, Incorporated and Sandy Township at least ten (10) business days advance notice when performing any work as directed by this paragraph that may affect their facilities.

16. Upon completion of the alteration of the subject crossing, Sandy Township, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the shared use pathway and any ancillary features thereof located beyond the State Route 4017 (Shaffer Road) edge of shoulder and within the joint right-of-way at the site of the subject public crossing (DOT 148 682 Y) in a safe, smooth and satisfactory condition, all in accordance with the approved plans and this Secretarial Letter, and provide Buffalo & Pittsburgh Railroad, Incorporated and the Pennsylvania Department of Transportation at least ten (10) business days advance notice when performing any work as directed by this paragraph that may affect their facilities.

17. Upon completion of the alteration of the subject crossing, 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 subject public crossing (DOT 148 682 Y).

18. This Secretarial Letter is without prejudice to Buffalo & Pittsburgh Railroad, Incorporated's right to reactivate the subject line at the State Route 4017 (Shaffer Road) crossing (DOT 148 682 Y) upon due notice to all parties of record and the Commission by application.

19. Any interested party or entity seeking to alter the crossing shall make a formal application to this Commission for approval prior to any alteration of the crossing. Alterations include, but is not limited to, any installation, removal or modification of any fixed utility facilities or trail related facilities at the site of the subject public crossing (DOT 148 682 Y).

20. 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 municipal authorities and other matters relevant to this proceeding.

21. In all other respects not inconsistent herewith our previous Commission Orders and/or Secretarial Letters for the public crossing captioned above remain in full force and effect.

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.

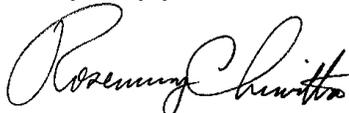
All formal documents must be filed with the Secretary of the Commission. Documents must be eFiled, mailed or hand delivered. All filings should be addressed to the Secretary, PA Public Utility Commission, 400 North Street, Harrisburg, PA 17120. The Commission will not accept documents delivered by fax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