

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of CSX Transportation, Inc., for : A-2023-3041598  
Approval to abolish four (4) at-grade crossings :  
where East Bayfront Parkway (DOT # 918 322 D); :  
Ore Dock Road (DOT # 976 924 B and 932 473 C); :  
and East Bay Drive (DOT # 918 325 Y) cross, at :  
grade, the tracks of CSX Transportation, Inc. in the :  
City of Erie, Erie County. :

Application of the Department of Transportation : A-2022-3036626  
of the Commonwealth of Pennsylvania for :  
approval to alter one (1) public at-grade crossing :  
(DOT 918 324 S) by the installation of Z Gates at :  
the multi-use trail along East Bayfront Parkway :  
(State Route 4034) and alter two (2) public :  
at-grade crossings (DOT's 524 337 C, and :  
524 335 N) by installing pedestrian crossing :  
improvements and altering the pre-emption and :  
timing where East 8<sup>th</sup> Street and East 10th Street :  
cross the track of CSX Transportation Inc., in the :  
City of Erie, Erie County, and the allocation of :  
costs incident thereto. :

Application of the Department of Transportation : A-2022-3036618  
of the Commonwealth of Pennsylvania for :  
approval of extending the public at-grade crossing :  
by widening the existing crossing surface and :  
moving the warning device for roadway widening :  
where Bayfront Parkway crosses, at grade, the :  
tracks of CSX Transportation, Inc. (DOT No. :  
936054T) in City of Erie, Erie County, and the :  
allocation of costs incident thereto. :

## **RECOMMENDED DECISION**

Before  
Charece Z. Collins  
Administrative Law Judge

### **INTRODUCTION**

This Recommended Decision recommends approval of the Joint Petition for Settlement (Joint Petition or Settlement) by the Department of Transportation of the Commonwealth of Pennsylvania, CSX Transportation, Inc., the Commission's Bureau of Investigation and Enforcement, Erie-Western Pennsylvania Port Authority, the Erie Sewer Authority and the City of Erie, of one Application filed by CSX Transportation, Inc. (CSXT) and two Applications filed by the Department of Transportation of the Commonwealth of Pennsylvania (PennDOT) with the Pennsylvania Public Utility Commission (Commission). This decision finds that the Joint Petition is supported by substantial evidence and is in the public interest.

### **HISTORY OF THE PROCEEDING**

#### **A-2023-3041598**

On July 3, 2023, CSXT, filed with the Commission an Application (CSXT Application) for the approval to abolish four (4) at-grade crossings where East Bayfront Parkway (DOT # 918 322 D); Ore Dock Road (DOT # 976 924 B and 932 473 C); and East Bay Drive (DOT # 918 325 Y) cross, at grade, the tracks of CSX Transportation, Inc. in the City of Erie, Erie County.

On July 19, 2023, the Erie-Western Pennsylvania Port Authority (Port Authority) filed with the Commission a Protest and Objection to the CSXT Application, averring that the four at-grade public railroad crossings are necessary for the effective

use of rail lines that serve the Port Authority and the adjacent industrial customers. The Port Authority requested that the CSXT Application be denied.

On August 1, 2023, the Erie Sewer Authority (Sewer Authority) filed with the Commission a Protest and Objection to the CSXT Application, noting that its wastewater treatment plant is served by the industry rails connected to the four at-grade public railroad crossings, and that the crossings are necessary for the effective use of the rail lines and future operations of the wastewater treatment plant. The Sewer Authority requested the denial of the CSXT Application.

On August 3, 2023, PennDOT, through its attorney, Jillian G. Fellows, Esquire, filed a Notice of Appearance and a Protest and Objection to the CSXT Application. PennDOT stated that it did not object to the abolishment of the four crossings, and it did not oppose performing the work to remove the crossings, remove the warning devices and resurface the roadway. However, PennDOT objected to CSXT's proposal that the abolishment of the four crossings would be performed by PennDOT at its sole cost and expense. PennDOT requested that the Commission deny CSXT's proposal that PennDOT be solely responsible for the expense and cost associated with abolishing the four crossings.

Also on August 3, 2023, the City of Erie objected to the CSXT Application, noting its ownership of the Erie Wastewater Treatment Plant, and averring that the rails of the railroad crossings have been essential access points to service the treatment plant.

On August 24, 2023, the Commission's Bureau of Investigation and Enforcement (I&E), through its attorney Kayla L. Rost, Esquire, filed a Notice of Appearance.<sup>1</sup>

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<sup>1</sup> As the proceedings are consolidated as indicated in the next footnote below, all attorney entrances and withdrawals of appearance are identical for each consolidated docket number and will not be repeated in the procedural history for these matters.

On October 2, 2023, Karen L. Cummings, Esquire filed a Notice of Appearance on behalf of PennDOT.

On October 30, 2023, PennDOT's attorney Fellows filed a Withdrawal of Appearance and Caroline G. Robelen, Esquire, filed a Notice of Appearance.

On December 11, 2023, I&E attorney Rost filed a Withdrawal of Appearance and Michael L. Swindler, Esquire, filed a Notice of Appearance on behalf of I&E.

A-2022-3036626

On November 3, 2022, PennDOT, filed with the Commission an Application (PennDOT 2022 Application) for the approval to alter one public-grade crossing by installing Z Gates at the multi-use trail along East Bayfront Parkway (State Route 4034) and alter two (2) public at-grade crossings (DOT's 524 337 C, and 524 335 N) by installing pedestrian crossing improvements and altering the pre-emption and timing where East 8<sup>th</sup> Street and East 10th Street cross the track of CSX Transportation Inc., in the City of Erie, Erie County, and the allocation of costs incident thereto.

On February 24, 2023, the Commission approved the PennDOT 2022 Application by Secretarial Letter. The Commission included in its Secretarial Letter directives to PennDOT, CSXT, and the City of Erie to complete certain work on or before July 31, 2025.

On February 27, 2023, PennDOT submitted final plans for the construction of State Route 4034. The Commission approved PennDOT's plans via Secretarial Letter dated March 23, 2023.

On July 3, 2023, CSXT filed a Petition to Amend the February 23, 2023 Secretarial Letter. CSXT averred that it requested the abolishment of the industry spur

tracks at the State Route 4034 (DOT No. 918 324 S), as these crossing locations are no longer needed. CSXT further averred that PennDOT agreed to remove the tracks and restore the road service at its own cost.

On July 19, 2023, the Port Authority filed a Protest and Objection to CSXT's Petition to Amend. The Port Authority asserted that the industry spur tracks service the Port Authority and adjacent industrial customers, were a necessity, and the State Route 4034 (DOT No. 918 324 S) crossing should not be abolished.

On August 1, 2023, the Sewer Authority filed a Protest and Objection to CSXT's Petition to Amend. The Sewer Authority asserted that the industry spur tracks were necessary to ensure a fully functional wastewater treatment plant. The Sewer Authority therefore requested that the crossing at State Route 4034 (DOT No. 918 324 S) not be abolished and that the Petition to Amend be denied.

A-2022-3036618<sup>2</sup>

Also on November 3, 2022, PennDOT, filed with the Commission an Application for approval of extending the public at-grade crossing by widening the existing crossing surface and moving the warning device for roadway widening where Bayfront Parkway crosses, at grade, the tracks of CSX Transportation, Inc. (DOT No. 936 054 T) in City of Erie, Erie County, and the allocation of costs incident thereto. In its Application, PennDOT averred that the funding for this project would consist of an estimate of 80% federal funds and 20% state funds. PennDOT further averred that the project was necessary and proper for the safety and convenience of the public.

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<sup>2</sup> Initially, only docket numbers A-2023-3041598 and A-2022-3036626 were assigned to the Office of Administrative Law Judge. At the November 9, 2023, prehearing conference, the parties indicated their intention to resolve additional docket number A-2022-3036618, in conjunction with the existing two docket numbers. The parties have since resolved all three dockets, and as such, Docket Numbers A-2023-3041598, A-2022-3036626 and A-2022-3036618 are hereby consolidated.

No responsive filings were submitted in this matter, but as noted in footnote No. 2 herein, the issues in this application are being resolved in conjunction with the other two proceedings, and this matter is therefore consolidated with the others.

Remaining Procedural History (Consolidated)

On September 18, 2023, the Commission served a notice establishing an initial telephonic prehearing conference for this matter for November 9, 2023, at 10:00 a.m. and assigning me as the presiding officer.

I served a prehearing conference order on September 18, 2023, setting forth the rules and expectations for the conference.

No other complaints or petitions to intervene have been filed in this matter.

The telephonic prehearing conference was held as scheduled on November 9, 2023. The participants were:

PennDOT	Karen Cummings, Esquire and Caroline Robelen, Esquire
CSXT	Benjamin Dunlap Jr., Esquire
I&E	Kayla Rost, Esquire
Port Authority and Sewer Authority	Timothy Sennett, Esquire
City of Erie	Jason Checque, Esquire

A representative from the Rail Safety Section of I&E, Andrew Reed, was also in attendance at the prehearing conference. At the prehearing conference, the parties discussed the settlement of several issues in this proceeding and advised that they expected a full settlement on all issues. The parties further agreed to the consolidation of the three docket numbers in this proceeding. The parties further agreed to submit a Joint Petition for Settlement no later than January 31, 2024.

On January 17, 2024, PennDOT, CSXT, I&E, the Port Authority, Sewer Authority and the City of Erie (hereinafter referred to as Joint Petitioners or Parties) filed a Joint Petition for Settlement of the three Applications with exhibits, agreements fully executed by the parties, and accompanying Statements in Support.

The record in this proceeding closed on January 31, 2024, which is the last date for any party submissions in this matter. This proceeding is now ready for ruling. For the reasons discussed below, the settlement will be recommended for approval without modification.

#### STIPULATED FINDINGS OF FACT

After having duly considered the evidence of record in this proceeding and as required by Section 1318(a) and (b) of the Code, 66 Pa.C.S. § 1318(a) and (b), the findings of fact, as stipulated by the Parties, are made as follows:<sup>3</sup>

1. The public at-grade crossing on the East Bayfront Highway, State Route 4034 (DOT No. 918 324 S) is no longer needed, and the suspension and removal of the crossing will improve the safety and travel on the East Bayfront Highway.

2. The public at-grade crossing on East Bay Drive (DOT No. 918 325 Y) is no longer needed, and the suspension and removal of the crossing will improve the safety and travel on East Bay Drive.

3. The public at-grade crossing on the East Bayfront Highway, State Route 4034 (DOT No. 936 054 T), serves the Port Authority shipyard leased to Donjon,

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<sup>3</sup> The following findings of fact regarding the Settlement were proposed by the Joint Petitioners and are adopted herein in their entirety (with only slight modifications made for clarity of this Decision).

Inc., and is necessary for the continued operation of a fully operational shipyard on the Great Lakes.

4. PennDOT has filed an Application for Approval to Alter the Public at-grade crossing by widening the existing crossing surface and moving the warning device for roadway widening where East Bayfront Highway, State Route 4034 crosses, at-grade, the track of CSXT (DOT No. 936 054 T).

5. In the absence of a Commission Order formally assigning maintenance responsibilities for the above, the City of Erie has agreed to accept responsibility for the maintenance of the crossings (DOT No. 936 054 T) and (DOT No. 918 322 D), in light of the Port Authority's agreement to assume the responsibility to maintain and repair the crossings, including repairs to the crossings (DOT No. 918 322 D) and (DOT No. 936 054 T), or pavement, or the berms within the right-of-way of the East Bayfront Parkway through normal maintenance, or as a result of alteration in the track itself or relocation of the crossings, as outlined in the signed agreement attached as Exhibit D. It is in the best interest of all parties to ensure the crossing is maintained in the future for the safety of the crossing, and East Bayfront Highway.

6. The public at-grade crossing on the East Bayfront Highway, State Route 4034 (DOT No. 918 322 D), serves the Port Authority's stevedore, Carmeuse Lime & Stone, and other industrial tenants, Sidehill Copper Works, McShane Welding, Inc. and Erie Sand & Gravel. The crossing (DOT No. 918 322 D) is attached to a rail line owned by the Port Authority, and it is necessary for the fully functional port on the Great Lakes and the operation of industrial tenants.

7. The crossing (DOT No. 918 322 D) also serves the Erie Sewer Authority and the City of Erie Wastewater Treatment Plant, and the crossing and rail line are necessary for a fully functional treatment plant and the future operation of the facility.

8. The rail line attached to the crossing (DOT No. 918 322 D) is owned by the Port Authority, which expended approximately \$458,000 in 2018 to improve the rail line to meet current standards and ensure rail service to Carmeuse Lime & Stone and the other industrial customers.

9. The Port Authority rail line and the at-grade crossings on Ore Dock Road (DOT No. 976 924 B) and (DOT No. 932 473 C) are necessary for the proper operation of the Port Authority stevedore, Carmeuse Lime & Stone, and the other industrial customers.

10. A Commission Order is in place for the maintenance of the crossings outlined in Finding of Fact Paragraph 9 (see Joint Stipulation Exhibit B), and an agreement is in place regarding the split of responsibility between the City of Erie and the Port Authority (see Joint Stipulation Exhibit C).

#### DESCRIPTION AND TERMS OF SETTLEMENT

The Settlement includes 11 numbered paragraphs, a request for relief, and Appendices A through D, and additional unlabeled attachments. Appendix A (also referred to as Exhibit A) is a map of the referenced rail lines. Appendix B (also referred to as Exhibit B) is the June 26, 2006 Commission Secretarial Letter. Appendix C (also referred to as Exhibit C) is a signed agreement between Erie-Western Pennsylvania Port Authority and the City of Erie. Appendix D (also referred to as Exhibit D) is a second signed agreement between Erie-Western Pennsylvania Port Authority and the City of Erie. The final attachments, which are not labeled individually, are the Supporting Statements of I&E, CSXT, PennDOT, the Port Authority, the Sewer Authority, and the City of Erie, respectively. The principal terms of the Settlement are as follows:<sup>4</sup>

1. The parties, by signatures of the representatives below, stipulate to the facts as presented in the Stipulated Facts within this Petition for Settlement.

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<sup>4</sup> Formatting and numbering are kept the same as in the Joint Petition.

2. The parties agree to perform the responsibilities as specified herein in a combined effort to improve, maintain and suspend the crossings as set forth herein.

3. In connection with this Joint Petition for Settlement, the Port Authority and Sewer Authority have consented to their addition as parties to this proceeding solely for the purposes of effectuating resolution to the handling of the rail crossings as set forth herein.

4. The parties' responsibilities and cost sharing associated with this Petition are as follows:

(a) The parties have agreed that the crossing at (DOT No. 918 324 S) may be suspended with the rail crossing and existing traffic control facilities to be removed. PENNDOT has agreed to be solely responsible for the cost and expense related to the removal of the rail facilities and existing traffic control facilities at crossing (DOT No. 918 324 S) and restoring the road surface of the East Bayfront Parkway, State Route 4034.

(b) The parties have agreed that crossing at (DOT No. 918 325 Y) shall be suspended with the removal of the rail crossing and existing traffic control facilities to be removed by CSXT. CSXT has agreed to be solely responsible for the cost and expense of removing the rail crossing, existing traffic control facilities (DOT No. 918 325 Y)<sup>5</sup> and restoring the road surface on East Bay Drive.

(c) Rail crossings (DOT No. 976 924 B) and (DOT No. 932 473 C) are on a private rail line owned by the Port Authority serving the Sewer Authority and the Port Authority. The responsibility for the rail crossing on (DOT No. 976 924 B) and

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<sup>5</sup> The Joint Petition states (DOT No. 918 324 S), which is believed to be a ministerial error. It has been presumably corrected to state (DOT No. 918 325 Y).

(DOT No. 932 473 C) are already assigned to the City of Erie under the Order dated June 26, 2006 at Docket A-00118931 attached as Exhibit B. There is an existing agreement between the City of Erie and the Port Authority concerning maintenance of the rail crossings DOT No. 976 924 B) and (DOT No. 932 473 C) attached as Exhibit C. The parties agree that the maintenance responsibilities for these crossings (DOT No. 932 473 C) and (DOT No. 976 924 B) should be assigned to the City of Erie.

(d) The parties agree that the maintenance responsibilities for crossing (DOT No. 918 322 D) should be assigned to the City of Erie, as the tracks at that crossing are owned by the Port Authority. A new agreement between the City of Erie and the Port Authority for maintenance of (DOT No. 918 322 D) is attached hereto as Exhibit D.

(e) The parties have agreed that these rail crossings (DOT No. 918 322 D), (DOT No. 976 924 B) and (DOT No. 932 473 C) will not be abolished in consideration of the City of Erie's continued agreement to maintain the crossings with reimbursement by the Port Authority.

(f) The parties agree that PENNDOT will be solely responsible for the expense and cost associated with the widening and improvement of rail crossing (DOT No. 936 054 T). PENNDOT has agreed to incorporate into their design a change order to the Bayfront Parkway Project to improve the rail crossing at (DOT No. 936 054 T).

(g) The parties agree that maintenance of rail crossing (DOT No. 936 054 T) after the completion of the Bayfront Parkway Project will be assigned to the City of Erie. In a separate agreement the City of Erie, CSXT and the Port Authority will agree that the Port Authority will assume maintenance of the crossing (DOT No. 936 054 T) upon completion of the Bayfront Parkway Project pursuant to Exhibit D.

5. Upon entry of an Order approving the settlement, the matter will be reassigned to the Commission's Bureau of Technical Utility Services, Rail Safety Section.

6. Upon completion of the work provided herein, the parties agree to provide written notice to Rail Safety. Rail Safety shall thereafter perform a final inspection to determine whether the work performed by the parties with regard to the crossing was completed satisfactorily and as specified in this Petition. If the work has been completed satisfactorily as specified in this Petition, Rail Safety will issue a Secretarial Letter officially closing the matter.

7. Subject to the Parties' right to withdraw from the Joint Petition for Settlement pursuant to Paragraph 9, the parties hereto agree to abide by the work responsibilities and financial obligations delineated in this Joint Petition for Settlement.

As explained below, the Parties have agreed to a settlement on all of the issues in this proceeding.

The Joint Petitioners agreed to conditions with respect to the Settlement which are contained in paragraph numbers 8-11 of the Settlement.

## DISCUSSION

### A. Settlement is in the Public Interest

It is the policy of the Commission to encourage parties to settle contested on-the-record proceedings. *See* 52 Pa. Code § 5.231(a). Settlements eliminate the time, effort and expense of litigating a matter to conclusion, which may include review of the Commission's decision by the appellate courts of Pennsylvania. Such savings not only benefit the individual parties, but also the Commission and the affected community.

By definition, a “settlement” reflects a compromise of the positions that the parties of interest have held, which arguably fosters and promotes the public interest. When active parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest. *Pa. Pub. Util. Comm’n v. Phila. Gas Works*, Docket No. M-00031768 (Opinion and Order entered Jan. 7, 2004); *Pa. Pub. Util. Comm’n v. CS Water & Sewer Assocs.*, 74 Pa.P.U.C. 767 (1991).

In the Settlement, the Joint Petitioners agree that the Settlement will resolve long-disputed maintenance obligations for two of the crossings involved in these proceedings, namely, (DOT No. 918 322 D) and (DOT No. 936 054 T). The Settlement will also result in the suspension of two unnecessary rail-highway crossings, namely, (918 324 S) and (918 325 Y). The Joint Petitioners agree that the Settlement is in the public interest as it will ensure that necessary crossings are properly maintained, and unnecessary crossings are suspended.

In its Statement in Support of the Settlement, I&E noted that in the litigated matter, it sought the removal of warning facilities and rails from the roadway, and it also wanted the roadway paved at rail crossing (DOT No. 936 054 T). I&E stated that PennDOT will be responsible for widening the rail crossing, and it has also agreed to incorporate a change to the Bayfront Parkway Project to improve the crossing. I&E Statement in Support at p. 3. The City of Erie has agreed to maintain this rail crossing and to be reimbursed by the Port Authority for the remainder of the crossings at issue in this proceeding. Therefore, I&E averred that its concerns in this proceeding have been adequately addressed, and that the Settlement is in the public interest and should be approved without modification. I&E Statement in Support at pp. 3-4.

CSXT also submitted its support of the Settlement, again noting the effort put in by the Parties to settle the matter, and the time and expense that will be saved by resolving any outstanding litigation. CSXT Statement in Support at pp. 1-2. CSXT averred that the adoption of the Settlement would advance the public interest and

requested that the Settlement be approved without modification. CSXT Statement in Support at p. 2.

PennDOT noted that the Settlement is in the public interest because it promotes the safety and welfare of the public by ensuring that the rail crossings at issue will provide access to the port in the City of Erie and promote a fully operational port. PennDOT Statement in Support at p. 2. PennDOT further stated that the Settlement benefits the parties and the public by clearly allocating costs and future maintenance responsibilities for the rail crossings. By resolving the outstanding issues, PennDOT will be able to move forward with its widening project for rail crossing (DOT No. 936 054 T). PennDOT further stated that the Settlement satisfies its Protest and Objection filed in Docket No. A-2023-3041598. PennDOT therefore requested that the settlement be approved without modification. PennDOT Statement in Support at p. 2.

The Port Authority asserted that the Settlement is in the public interest because it promotes the safety and welfare of the public by ensuring a fully operational port in the City of Erie with the continuation of the rail crossings at issue in this proceeding. Port Authority Statement in Support at p. 2. The Port Authority further averred that the Settlement satisfies its Protest and Objection filed in this proceeding. The Port Authority noted that the Settlement resolves all outstanding litigated issues and requested that it be approved without modification. Port Authority Statement in Support at p. 2.

The Sewer Authority averred that the Settlement is in the public interest because it promotes safety and welfare of the public by ensuring that the sewage treatment plant will be fully operational with the continuation of the rail line that serves the property. Sewer Authority Statement in Support at p. 2. The Sewer Authority also stated that the Settlement satisfies its Protest and Objection filed in this proceeding. The Sewer Authority further stated that all outstanding issues have been resolved, and it requested that the Settlement be approved without modification. Sewer Authority Statement in Support at p. 2.

The City of Erie averred that the Settlement is in the public interest because it will further the statutory provisions of 66 Pa.C.S. §§ 2702-2706, with regard to public convenience and safety. The City of Erie also stated that the public will be benefited by the Settlement, as it will ensure that the sewer plant will be fully operational with the continuation of the rail line that serves the property. The City of Erie stated that the Settlement satisfies its Protest and Objection filed in this proceeding. The City of Erie therefore respectfully requested that the Settlement be approved without modification. City of Erie Statement in Support at p. 2.

1. Recommendation – Approval of Settlement

The Settlement represents the agreement of the Parties proposing a resolution of all the issues in this proceeding. The Settlement is the result of compromises. The Commission encourages parties in contested, on-the-record proceedings to settle cases. *See* 52 Pa. Code § 5.231. Compromises dispense with costly litigation and promote judicial economy.

It is important that the rail crossings be properly maintained, to ensure the continuation of essential services for the community and businesses served by those crossings. It is equally important that unnecessary crossings be suspended to prevent any safety issues caused by unnecessary rail lines. The Settlement enables all necessary actions to take place much sooner than a litigated proceeding. The Parties are commended for their efforts in resolving all outstanding issues in this matter, in a manner that is consistent with the public interest.

Upon due consideration of the terms and conditions of the Settlement, including the Supporting Statements of the Joint Petitioners, the Settlement constitutes a fair, just and reasonable resolution of the Commission's investigation for the reasons the Parties identify as noted above. Therefore, I find that the Settlement is in the public interest and recommend that it be approved without modification.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the Parties to this proceeding. 66 Pa.C.S. §§ 2702, 2704.
  
2. The City of Erie, CSXT, PennDOT and I&E are all concerned parties within the meaning of 66 Pa.C.S. §§ 2702, 2704. The Port Authority and Sewer Authority have consented to be parties to the proceeding solely for the purpose of effectuating the settlement and addressing the assignment of maintenance responsibilities for the rail crossings.
  
3. The Commission encourages parties in contested, on-the-record proceedings to settle cases. 52 Pa. Code § 5.231.
  
4. The Joint Petition for Settlement of the Applications in this proceeding, executed and submitted by the Department of Transportation of the Commonwealth of Pennsylvania, CSX Transportation, Inc., the Commission's Bureau of Investigation and Enforcement, Erie-Western Pennsylvania Port Authority, the Erie Sewer Authority and the City of Erie, is in the public interest and should be approved without modification. *Pa. Pub. Util. Comm'n v. Phila. Gas Works*, Docket No. M-00031768 (Opinion and Order entered Jan. 7, 2004); *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assocs.*, 74 Pa.P.U.C. 767 (1991).

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Settlement of the Applications in this proceeding, executed by the Department of Transportation of the Commonwealth of Pennsylvania, CSX Transportation, Inc., the Commission's Bureau of Investigation and Enforcement, Erie-Western Pennsylvania Port Authority, the Erie Sewer Authority and the City of Erie, and submitted at consolidated Docket Nos. A-2023-3041598, A-2022-3036626 and A-2022-3036618, be approved without modification.

2. That, upon the approval of this Recommended Decision, the proceeding be reassigned to the Commission's Bureau of Technical Utility Services, Rail Safety Section for the issuance of a Secretarial Letter setting forth the Parties' Settlement terms.

3. That the Protest and Objection of the Erie-Western Pennsylvania Port Authority at Docket No. A-2023-3041598 be deemed satisfied.

4. That the Protest and Objection of the Erie Sewer Authority at Docket No. A-2023-3041598 be deemed satisfied.

5. That the Protest and Objection of the Department of Transportation of the Commonwealth of Pennsylvania at Docket No. A-2023-3041598 be deemed satisfied

6. That the Protest and Objection of the City of Erie at Docket No. A-2023-3041598 be deemed satisfied.

