



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

IN REPLY PLEASE
REFER TO OUR FILE

May 16, 2024

A-2022-3033069

TO ALL PARTIES OF RECORD

Bridge replacement project and assignment of future maintenance responsibilities at the public crossing (DOT 510 521 Y), where Washington Street crosses, above grade, the tracks of Norfolk Southern Railway Company, Port Authority of Allegheny County East Busway and Waverly Avenue located in the Borough of Swissvale, Allegheny County and exemptions from the minimum vertical clearance requirements of Subchapter C of 52 Pa. Code § 33.121 and the allocation of costs thereto.

To Whom It May Concern:

At a location in the Borough of Swissvale, Allegheny County, Washington Street (borough roadway) crosses, above grade, the track of Norfolk Southern Railway Company, the Port Authority of Allegheny County East Busway and Waverly Avenue (borough roadway), at the public crossing (DOT 510 521 Y).

It should be noted that the previous proceedings before this Commission and the Type 5B Swissvale Borough Map lists the roadway as a street whereas other resources list it as an avenue, for the purposes of this document it shall be referred to as Washington Street.

By letter electronically filed with the Commission dated June 13, 2022, Norfolk Southern Railway Company (Norfolk Southern) requested Commission approval of bridge repair plans that would address Priority 1 maintenance needs discovered during a recent bridge inspection at the crossing.

Upon receipt of the bridge repair plans the Commission opened an emergency rail docket to address the Priority 1 bridge repairs and approve the proposed bridge repair plans.

By Secretarial Letter dated July 6, 2022, the Commission approved the emergency repairs and bridge repair plans.

By petition received by the Commission on August 18, 2022, Norfolk Southern petitioned the Commission to rescind the Secretarial Letter dated July 6, 2022, based upon newly discovered facts.

The facts were discovered upon a structural analysis and further inspection of the bridge by the Pennsylvania Department of Transportation (Department) that determined other deficiencies not identified in the previously approved repair plans.

Norfolk Southern surmised in their petition that rather than repair the bridge that it would be more cost efficient to replace the bridge considering the additional repairs that were needed to satisfy the deficiencies outlined in the Department's structural analysis.

Norfolk Southern in their petition offered to replace the bridge at its sole cost and expense if the Borough of Swissvale (Borough) would accept future maintenance of the bridge.

The Borough had declined Norfolk Southern's offer prior to the petition being filed and Norfolk Southern through their petition requested a virtual field conference to discuss a path forward.

It was revealed in the Norfolk Southern petition that the Borough pursuant to the Department's recommendation closed the bridge to all vehicular traffic based on the newly discovered facts. The Commission will affirm the closure of the bridge and assign maintenance for the road closure and detour signing to the Borough.

By Commission Order entered October 27, 2022, Norfolk Southern's petition for rescission of the Secretarial Letter issued July 6, 2022, was granted, and was ordered to be held in abeyance so the parties could pursue final resolution.

Upon assignment and as per Order mentioned above a Commission staff engineer arranged and conducted a virtual field teleconference on November 17, 2022, with the interested parties involved. Representatives of Pennsylvania Department of Transportation, Borough of Swissvale, Port Authority of Allegheny County and Norfolk Southern Railway Company were among those in attendance.

At the virtual field conference Norfolk Southern Railway Company and the Borough of Swissvale could not come to an amicable agreement on future maintenance of the replacement bridge and offered to continue talks with each other in an effort towards final resolution on the matters. The Borough of Swissvale requested that the talks be held with the Borough and Norfolk Southern without Commission involvement.

On April 5, 2024, the parties filed a Settlement Term Sheet to which Norfolk Southern and the Borough have reached an agreement on terms for the replacement of the existing bridge, allocation of costs and future maintenance assignments. The Port Authority, the Department and the Bureau of Investigation and Enforcement are in concurrence with the proposed settlement.

The existing Washington Street bridge structure was built in 1907. The structure is a two-span riveted steel thru girder bridge with a reported total span length of 122.0 feet, a clear roadway width of 30.0 feet, and an out-to-out width of 40.5 feet, which includes a 7.0-foot sidewalk located on the northern outside edge of the structure.

The bridge superstructure is supported by two (2) stone masonry substructures (abutments) and a two-column steel pier bent located between Waverly Street and the Port Authority Busway. The existing approach roadways are generally oriented east to west and consist of a two (2) lane, two (2) directional bituminous overlay roadway. There are concrete curbed sidewalks on each approach to the sidewalk on the structure. Palmer Street (Borough roadway) intersects Washington Street on the west side of the structure.

The bridge structure spans over two tracks of Norfolk Southern located on the western side under the structure. The tracks are flanked by the stone masonry abutment and a concrete retaining wall/barrier adjacent to the busway. The existing minimum overhead (vertical) clearance is 19.9 feet above top of rails to the bottom of the superstructure. The existing minimum side (horizontal) clearance is 14.8 feet with respect to the busway retaining wall/barrier and centerline of track. The existing minimum overhead (vertical) clearance is 17.3 feet from the busway to the superstructure and 12.6 feet from Waverly Street to the bottom of the superstructure. The current ADT across the structure was approximately 4,000 vehicles with 5 percent trucks. The existing bridge as mentioned above is closed to vehicular traffic, its overall condition is rated as poor as per the Department's website for locally owned bridges.

No existing Commission Order or Secretarial Letter was located memorializing the existing required clearance exemption for the minimum vertical (overhead) clearance with respect to the Norfolk Southern tracks and the existing bridge structure.

The proposed bridge structure will increase the minimum vertical clearance requirements but will not meet the Commission's minimum vertical (overhead) clearance requirements as set forth in Title 52 Pa. Code §33.121 of 22.0 feet, from top of rails to the bottom of the proposed bridge structure. The proposed minimum vertical clearance will be increased from the existing 19.9 feet to approximately 21.4 feet above top of rails.

The proposed minimum horizontal (side) clearance will remain the same as the existing at 14.8 feet with respect to the busway retaining wall/barrier to centerline of track. The proposed minimum vertical clearances above Waverly Avenue will remain the same at 12.6 feet and will increase above the busway to 19.6 feet with respect to the bottom of the proposed bridge structure.

Norfolk Southern proposes to replace the existing structure with a new single span steel pony truss bridge, supported by the existing stone masonry abutments with new reinforced concrete abutment caps. The proposed structure has a total span length of 121.3 feet from abutment centerline of bearing to abutment centerline of bearing.

The proposed structure will have a concrete filled steel grid deck with of depth of 0.48 feet, a curb-to-curb width of 30.0 feet and an average out-to-out width of 51.3 feet. The bridge will feature two 10-foot travel lanes with one lane in each direction, two 5-foot outside shoulders, and two 6.0-foot reinforced concrete sidewalks. The sidewalks are located on each outside edge of the superstructure between the main chords of the truss and a 10.0-foot-high galvanized protective fence. Two 1.7-foot-wide F-shape reinforced concrete barriers located on each side of the travel lanes will protect the main truss chords from vehicular traffic.

A series of steel floorbeams will connect the bottom truss chords and support the concrete filled steel deck, concrete barriers and all vehicle loading. Steel overhang brackets will be affixed to the outside of the truss chords and support the sidewalks, fencing and pedestrian loading. Four light poles are proposed to be located and affixed to the truss chords two on each side and additional poles are planned for the roadway approaches. Concrete approach roadway slabs are proposed at each end of the bridge and concrete barriers where appropriate as per the proposed plans.

The bridge replacement project will detour vehicular and pedestrian traffic during construction. The proposed vertical grade will increase slightly on the approach roadways and over the bridge and horizontal alignment will largely remain the same tying into existing roadway and sidewalk facilities. The intersection of Washington Street and Palmer Street will be reconfigured slightly as per the proposed plans.

In conjunction with the subject bridge replacement project, Norfolk Southern as of this date has not requested the Commission to appropriate any portions of railroad property. Accordingly, it will be necessary for Norfolk Southern to do so, if they choose, prior to the start of construction.

No utilities were presently detailed to be attached to the proposed bridge structure at this time, other than energization for the bridge lighting. The parties are reminded if new utilities will be attached to the bridge structure at a future date outside of this project, an application must be filed with the Commission. This includes new aerial or underground facilities above, below or attached to the bridge and/or within the limits of the public crossing.

The Commission hereby informs the parties that any future facilities, alterations rehabilitations, bridge postings, closures and clearance changes above the tracks and roadways are under the jurisdiction of this Commission and require an application be submitted for approval and affirmation.

The non-carrier public utilities if any, will be directed to alter or relocate their facilities as necessary to construct the project, at their initial cost and expense.

The Commission has tentatively established jurisdiction along the Washington Street Survey and Construction baseline project as the area within the confines of the railroad right-of-way and the highway rights-of-way and over those portions of the project along the Washington Street construction baseline between Highway Station 5+00.00 and Highway Station 9+51.00 and all area in between.

The Washington Street bridge replacement project will be funded with 100 percent private funds. The estimated total cost for the construction project is \$3,300,000.

Norfolk Southern has certified that a copy of the Settlement Term Sheet has been served on each party in interest and none have advised that it objects to the issuance of a Secretarial Letter, prior to a hearing, approving, and memorializing the settlement consistent with the terms agreed to.

Upon full consideration of the matter involved, we determine that it is not necessary to schedule a hearing in this proceeding at this time and that issuance of a Secretarial Letter without a hearing is proper since the parties have agreed to construct the project, consistent with the Settlement Term Sheet and none of the parties has expressed any objections to the settlement proposal.

Inasmuch as the parties agree with the proposed bridge replacement project and inasmuch as the parties request a Secretarial Letter as soon as possible to permit initiation of construction of the Washington Street bridge replacement project, the Commission is of the opinion that a Secretarial Letter can be issued consistent with the terms of the settlement. Upon

completion of the project, it may be necessary to schedule a hearing before an administrative law judge to determine the final allocation of costs, if any, incurred by the non-carrier utilities and any other matters relevant to this proceeding.

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 bridge replacement project is approved as herein directed:

1. The caption of the subject proceeding is hereby revised as shown herein.
2. The Secretarial Letter issued July 6, 2022, and Certified Plans on record dated July 7, 2022, be rescinded.
3. The action of the Borough of Swissvale to close the Washington Street bridge to vehicular traffic and to install the existing road closure and traffic controls is affirmed.
4. The Settlement Term Sheet entered between Norfolk Southern Railway Company, the Borough of Swissvale, the Pennsylvania Department of Transportation, the Port Authority of Allegheny County and the Commission's Bureau of Investigation and Enforcement to alter the public crossing (DOT 510 521 Y) by removal and replacement of the existing bridge where Washington Street crosses, above grade, the tracks of Norfolk Southern Railway Company, the Port Authority of Allegheny County East Busway and Waverly Avenue located in the Borough of Swissvale, Allegheny County be and is hereby approved consistent with its terms provided herein.
5. Norfolk Southern Railway Company, at its sole cost and expense, prior to the start of construction, prepare and submit to this Commission for approval and to the Borough of Swissvale, 20 days prior to for review and comment, and to all parties of record for examination, complete detailed construction plans and bridge structural plans built to current PennDOT and AASHTO bridge standards, and commensurate to the Settlement Term Sheet for the Washington Street bridge replacement and Palmer Street reconstruction details.
6. Norfolk Southern Railway Company, at its sole cost and expense, if necessary, prior to the start of construction, prepare and submit to this Commission for approval and to the Borough of Swissvale, 20 days prior to for review and comment, right-of-way plans and the metes and bounds descriptions for any railroad or property for the Commission to appropriate. Norfolk Southern Railway Company costs shall include right-of-way acquisitions, deed preparation, property recordings, and all Commission and Allegheny County court litigation costs related to property acquisitions, if necessary.
7. Norfolk Southern Railway Company, at its sole cost and expense, furnish all material and perform all work required to construct the proposed crossing project generally in accordance with the approved plans and this Secretarial Letter providing sidewalks and protective fencing on both sides of the bridge and lighting that matches the decorative street lighting on Washington Street.

8. That an exemption from the Commission's vertical (overhead) clearance as set forth in Title 52 Pa. Code §33.121 be granted in this instance for a minimum vertical (overhead) clearance, with respect to the tracks of Norfolk Southern Railway Company of 19.9 feet, from the top of rail to the bottom of the existing structure until the existing bridge structure is removed.

9. That an exemption from the Commission's minimum vertical (overhead) clearance as set forth in Title 52 Pa. Code §33.121 be granted in this instance for a minimum vertical (overhead) clearance, with respect to the tracks of Norfolk Southern Railway Company of 21.4 feet, from the top of rail to the bottom of the proposed bridge structure.

10. That any operating railroad, over the subject line, issues appropriate notice warning its employees of the restrictive clearance herein, all in accordance with its standard operating practice.

11. Norfolk Southern Railway Company, at its sole cost and expense, furnish all material and do all work necessary to replace and install any detours or traffic controls that may be required to properly and safely accommodate highway and pedestrian traffic during the time the project is being constructed.

12. Borough of Swissvale, at its sole cost and expense, furnish all material and do all work necessary to maintain the detours or traffic controls provided by paragraph 11 that may be required to properly and safely accommodate highway and pedestrian traffic during the time the project is being constructed.

13. Norfolk Southern Railway Company, at its sole cost and expense, furnish all material and perform all work relating to its facilities which may be required as incidental to the performance of the proposed work; furnish construction engineering and inspection service if required as a result of the proposed work; and furnish and maintain flagmen and watchmen, as required, to protect its operations during the time the work is being performed across, above and adjacent to its tracks.

14. Norfolk Southern Railway Company shall make a one-time payment of \$200,000 to be placed in escrow for road closure, detour sign maintenance and all future Washington Street bridge maintenance assigned to Swissvale Borough, with \$50,000 paid upon Commission approval of the project with this Secretarial Letter and \$150,000 paid upon completion of the project. Swissvale Borough agrees not to request any further funding from Norfolk Southern Railway Company for bridge maintenance once the original funds are depleted.

15. Any relocation or changes in and/or removal of any adjacent structures, equipment or other facilities of any non-carrier public utility company or municipal authority located within the limits of the highway right-of-way, within the limits of this Commission's jurisdiction, which may be required as incidental to the execution of the crossing project, be made by said public utility company or municipal authority, at its initial cost and expense, and in such manner as will not interfere with the construction of the project.

16. Any relocation or changes in and/or removal of any adjacent structures, equipment or other facilities of any non-carrier public utility company or municipal authority located beyond the limits of the highway right-of-way, within the Commission's jurisdiction, which may be required as incidental to the execution of the crossing project, be made by said public utility company or municipal authority, and in such manner as will not interfere with the construction of the project.

17. Norfolk Southern Railway Company, at its sole cost and expense, furnish all material and do all work necessary to complete the remainder of the bridge crossing project, including all roadway work and any other ancillary features of the project, all generally in accordance with the approved plans and this Secretarial Letter.

18. Borough of Swissvale cooperate with Norfolk Southern Railway Company so that during the construction of the project, the operations and facilities of the railroad company will not be endangered or unnecessarily impeded.

19. Norfolk Southern Railway Company cooperate with the Borough of Swissvale and the Port Authority of Allegheny County and conduct operations in the vicinity of the proposed crossing construction project, in a safe manner and under control during the time the project is being constructed.

20. 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.

21. All work necessary to complete the project construction within the Commission's jurisdiction be done in a manner satisfactory to this Commission within 20 months of the Commission approval of the final bridge structural and construction plans submitted for the project. On or before said date, Norfolk Southern Railway Company report to this Commission in writing the date of actual completion of the work.

22. Norfolk Southern Railway Company, at least thirty (30) days prior to the start of work, notify local emergency management services and all parties in interest of the actual date on which work will begin.

23. 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 the Washington Street bridge substructures (abutments) and existing stone masonry retaining wall adjacent to wings A&B of the subject bridge, and to maintain its tracks, wire lines, drainage facilities and any other railroad facilities, existing or altered, located within the limits of the project and to provide the Borough of Swissvale and the Port Authority of Allegheny County at least ten (10) days advance notice when performing any work as directed by this paragraph that may affect their facilities, all in accordance with the provisions of this Secretarial Letter.

24. Upon completion of the construction of the proposed project, Borough of Swissvale, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the sidewalk approaches to the bridge, and snow, ice, and debris removal on the sidewalks along the roadway approaches and the sidewalks across the proposed bridge structure, all in accordance with the provisions of this Secretarial Letter.

25. Upon completion of the construction of the proposed project, Borough of Swissvale, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the Washington Street bridge superstructure, including the steel bridge truss and its members, bracing, floorbeams, bearings, concrete filled steel grid deck, any future roadway pavement, bridge concrete approach slabs, concrete sidewalks, protective fencing, protective barriers, any structure mounted guiderail and transition guiderail/concrete barrier if any, concrete curbing, NBIS bridge inspection, lighting, light poles, lighting energization, roadway and bridge signing, structure drainage, roadway drainage facilities if any and the remainder of the project including the roadway approaches, Palmer Street, snow, ice and debris removal on the bridge roadway and approach roadways and provide Norfolk Southern Railway Company and the Port Authority of Allegheny County at least ten (10) days advance notice when performing any work as directed by this paragraph that may affect their facilities, all in accordance with the provisions of this Secretarial Letter.

26. Upon completion of the construction of the proposed project, Port Authority of Allegheny County, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain its busway facilities at the subject crossing in a safe and satisfactory condition and provide Norfolk Southern Railway Company and the Borough of Swissvale at least ten (10) days advance notice when performing any work as directed by this paragraph that may affect their facilities, all in accordance with the provisions of this Secretarial Letter.

27. 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 improvements.

28. Upon completion of the work herein directed, and upon a written request by any party hereto, this proceeding be scheduled for a hearing at a time and a place assigned by this Commission, upon due notice to all parties, to receive evidence relative to the allocation of initial costs incurred, if any, by the public utility companies and municipal authorities, and any 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.

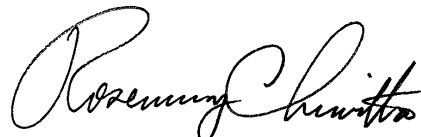
All formal documents must be filed with the Secretary of the Commission. Documents must be eFiled, mailed or hand delivered. All filings should be addressed to the Secretary, PA Public Utility Commission, 400 North Street, Harrisburg, PA 17120. The Commission will not accept documents delivered by fax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