

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held August 1, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Application of the Pennsylvania Department of Transportation for approval to alter the public crossing (DOT 872 491 H) by replacement of the existing bridge where SR 0083 (Interstate 83) crosses, above grade, the tracks of CSX Transportation, Inc. and Codorus Creek located in Spring Garden Township and North York Borough, York County, and the allocation of costs incident thereto.

A-2022-3035024

ORDER

BY THE COMMISSION:

By Order entered December 7, 2023, the Commission approved the Application of the Pennsylvania Department of Transportation for approval to alter the public crossing (DOT 872 491 H) by replacement of the existing bridge where SR 0083 (Interstate 83) crosses, above grade, the tracks of CSX Transportation, Inc. and Codorus Creek, in Spring Garden Township and North York Borough, York County; and the allocation of certain cost and expenses. The Commission also directed that certain property be appropriated for the purpose of the aforesaid project, pursuant to Section 2702 of the Public Utility Code, 66 Pa.C.S. § 2702. Specifically, the aforesaid project necessitated the appropriation of property within Spring Garden Township and North York Borough,

filed with the Recorder of Deeds of York County on October 4, 2023, by Instrument No. 2023038457. (Department Claim No. 6601292000).

On February 27, 2024, PennDOT filed the instant Petition with the Commission to Transfer Jurisdiction in this matter to the Court of Common Pleas of York County, pursuant to 66 Pa.C.S. § 2704, for the filing of a petition to deposit the estimated just compensation amount into court pursuant to the Eminent Domain Code, 26 Pa.C.S. § 307. PennDOT has determined that the just compensation for the property appropriation is \$9,500 which, as of the date of this Petition, has not been accepted by CSX Transportation, Inc.

Section 2704(a) of the Public Utility Code provides in pertinent part:

The compensation for damages which the owners of adjacent property taken, injured, or destroyed may sustain in the construction, relocation, alteration, protection, or abolition of any crossing under the provisions of this part, shall, after due notice and hearing, be ascertained and determined by the commission.

66 Pa.C.S. § 2704(a).

Section 2704(b) of the Public Utility Code provides in part:

The commission may, of its own motion, or upon application of any party in interest, submit to the court of common pleas of the county wherein the property affected is located, the determination of the amount of damages to any property owner due to such condemnation, for which purpose such court shall appoint viewers, from whose award of damages an appeal to said court shall lie on the part of any person or party aggrieved thereby, under the general law applicable to the appointment of viewers, for the ascertainment of damages due to the condemnation of private property for public use.

66 Pa.C.S. § 2704(b).

We determine it is appropriate to refer the subject property damage claim of CSX Transportation, Inc. to the Court of Common Pleas of York County in accordance with 66 Pa.C.S. § 2704(b). Accordingly, this Commission finds that the instant Petition of PennDOT should be granted, and that the property damage claim should be referred to the Court of Common Pleas of York County; **THEREFORE,**

IT IS ORDERED:

1. That the Petition filed on February 27, 2024, by the Pennsylvania Department of Transportation is granted.
2. That this matter is referred to the Court of Common Pleas of York County for a determination of the amount of damages due to CSX Transportation, Inc. for the property interests that have been appropriated, as set forth more fully in the Commission Order entered December 7, 2023, at A-2022-3035024.

BY THE COMMISSION



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: August 1, 2024

ORDER ENTERED: August 1, 2024