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September 10, 2024

VIA ELECTRONIC-FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

RE: In re: Application of Buffalo & Pittsburgh Railroad, Inc. for approval *nunc pro tunc* to alter public railroad crossing (DOT 149 041 V) where Etna Street crosses at grade the tracks of Buffalo & Pittsburgh Railroad, Inc., located in the City of Butler, Butler County, Pennsylvania

Our File No.: 0002393.0396125

Dear Secretary Chiavetta:

Enclosed for filing please find the Application of Buffalo & Pittsburgh Railroad, Inc. in reference to the above.

I hereby certify that a copy of this Application has been sent to all persons, parties and entities potentially concerned in, or affected by the proposal set forth in the Application as indicated on the Certificate of Service.

Thank you for your attention to this matter.

Sincerely,

Aaron M. Ponzio

Aaron M. Ponzio

AMP/eie

Attachment

cc: All Parties as Indicated on Certificate of Service

32041734.1

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Buffalo & Pittsburgh Railroad, Inc. for approval *nunc pro tunc* to alter public railroad crossing (DOT 149 041 V) where Etna Street crosses at grade the tracks of Buffalo & Pittsburgh Railroad, Inc., located in the City of Butler, Butler County, Pennsylvania

Application Docket No. _____

Electronically Filed

To Pennsylvania Public Utility Commission:

1. The name and address of applicant are Buffalo & Pittsburgh Railroad, Inc., 400 Meridian Centre, Suite 300, Rochester, NY 14618.

2. The name and address of applicant's attorneys to whom correspondence should be directed are J. Lawson Johnston, Esquire, Scott D. Clements, Esquire, Aaron M. Ponzio, Esquire, and Dickie, McCamey & Chilcote, P.C., Two PPG Place, Suite 400, Pittsburgh, PA 15222.

3. Buffalo & Pittsburgh Railroad, Inc. ("BPRR") is a common carrier by rail that provides freight rail services in Pennsylvania and New York. It is the current owner and operator of a railroad line which intersects an at grade public crossing in the City of Butler, Butler County, Pennsylvania, where Etna Street crosses BPRR's right of way at or near milepost 287.23 (DOT 149 041 V).

4. BPRR is filing this Application for approval to alter the subject crossing *nunc pro tunc* due to the temporary removal of the crossing surface and placement of concrete barriers in September of 2021, as part of a project to rehabilitate the railroad tracks.

5. The names of the public utilities, municipalities, corporations, or property owners that BPRR believes to be concerned in or affected by the abolishment of the crossings are the City of Butler, Butler County and the Commonwealth of Pennsylvania, Department of Transportation.

6. N/A.

7. N/A.

8. The application is necessary or proper for the following reasons: 1) BPRR was engaged in a project to rehabilitate the railroad tracks and track bed on the railroad line where the Etna Street crossing is located which required the crossing surface to be temporarily removed and barriers placed to protect the public from entering the crossing during the remediation of the railroad tracks and track bed; 2) BPRR's intent was to replace the crossing surface and remove the barriers once the rehabilitation work was completed; 3) Due to other needs and priorities, the crossing surface has not been replaced and the barriers have not been removed; and 4) BPRR seeks to comply with the Public Utility Code, 66 Pa. C.S.A. §2702 by obtaining Commission approval for the alteration of the Etna Street Crossing, *nunc pro tunc*.

WHEREFORE, applicant prays your Honorable Commission approve the Application.

Respectfully Submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: /s/Aaron M. Ponzo

J. Lawson Johnston, Esquire

PA I.D. #19792

Scott D. Clements, Esquire

PA I.D. #78529

Aaron M. Ponzo, Esquire

PA I.D. 203584

Attorneys for Applicant,

Buffalo & Pittsburgh Railroad, Inc.

Dated: September 10, 2024

VERIFICATION

I, Brad Ovitt, on behalf of Buffalo & Pittsburgh Railroad, Inc., hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 9-9-2024



Brad Ovitt

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: Application of Buffalo & Pittsburgh Railroad, Inc. for approval *nunc pro tunc* to alter public railroad crossing (DOT 149 041 V) where Etna Street crosses at grade the tracks of Buffalo & Pittsburgh Railroad, Inc., located in the City of Butler, Butler County, Pennsylvania

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CERTIFICATE OF SERVICE

I Aaron M. Ponzo, hereby certify that true and correct copies of the foregoing Application have been served this 10th day of September, 2024, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54, by first-class U.S. mail, postage prepaid and Electronic Mail, as follows:

Charles Keilman PennDOT District Office 10-0 2550 Oakland Ave PO Box 429 Indiana PA 15701-0429 <u>chakeilman@pa.gov</u>	Commonwealth of Pennsylvania, Department of Transportation Commonwealth Keystone Building 400 North Street, 9 th Floor Harrisburg, PA 17120 <u>kcummings@pa.gov</u>
Butler County Board of Commissioners 124 W Diamond Street Butler, PA 16001	City of Butler Butler City Building 140 West North Street Butler, PA 16001
Michael L. Swindler, Esquire Garrett. A. Rine, Esquire Pennsylvania Public Utility Commission Bureau of Investigation and Enforcement Commonwealth Keystone Building 400 North Street Harrisburg, PA 17120 <u>mswindler@pa.gov</u> <u>garrine@pa.gov</u>	

Respectfully Submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: /s/Aaron M. Ponzo

Aaron M. Ponzo, Esquire

PA I.D. 203584

Attorneys for Applicant,
Buffalo & Pittsburgh Railroad

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