



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

IN REPLY PLEASE
REFER TO OUR FILE

November 14, 2024

A-2024-3051784

TO ALL PARTIES OF RECORD

The disposition of two (2) highway-rail crossings where Gaskill Avenue (City roadway; DOT 505 007 V) and Harrison Avenue (State Route 0130; DOT 505 008 C) cross, at grade, the single track of Ebara Elliott Energy, formerly owned and operated thereon by Consolidated Rail Corporation, located in the City of Jeannette, Westmoreland County.

To Whom It May Concern:

This matter is before us by reason of an informal complaint received by the Rail Safety Division by electronic mail on September 13, 2024. In the informal complaint, a concerned citizen questioned whether the highway-rail related signage present at the subject crossings could be removed since the rail spur was discontinuous and appeared to be no longer in service.

On September 23, 2024, a Commission staff engineer visited the subject crossings. The crossing (DOT 505 007 V) at Gaskill Avenue forms a T-intersection with North Fifth Street (City roadway). Gaskill Avenue is oriented generally east-west and North Fifth Street is oriented generally north-south. The roadway approaches are two (2) lane, two-way asphalt paved City roadways with curbs and sidewalks. A single railroad track traverses the T-intersection on a wide skew from the southwest quadrant to the northeast quadrant. The crossing surface consists of a timber and asphalt crossing surface in fair condition. The existing warning facilities at the crossing consists of a post-mounted Crossbuck (R15-1) in the eastbound approach and a utility pole mounted Crossbuck (R15-1) in the westbound approach to the crossing along Gaskill Avenue. Grade Crossing Advance Warning (W10-1) signs are present in the eastbound approach to the crossing along Gaskill Avenue and the southbound approach to the crossing along North Fifth Street.

The crossing (DOT 505 008 C) at Harrison Avenue (State Route 0130) crosses at grade a single railroad track. Harrison Avenue (State Route 0130) is a two (2) lane, two-way asphalt paved roadway with curbs and sidewalks oriented generally east-west. The tracks are oriented generally north-south, perpendicular to the roadway. On the north side of the roadway, the tracks enter the property of Ebara Elliott Energy (Elliott). The crossing surface consists of an asphalt with rubber rail seal crossing surface in good condition. The existing warning facilities at the crossing consists of post-mounted Crossbuck (R15-1), Emergency Notification System (I-13) signs and Grade Crossing Advance Warning (W10-1) signs on both approaches to the crossing. The Emergency Notification System (I-13) signs indicate Elliott Railroad as the railroad operator.

Upon review of Commission records by a Commission staff engineer it was determined that by application received by the Commission on October 30, 1986, docketed at A-00107189, Consolidated Rail Corporation (Conrail), averred that by certificate and decision served May 18, 1984 at Docket No. AB-167 (Sub No. 582), Conrail was authorized by the Interstate Commerce Commission to abandon the portion of its Brush Creek Industrial Track (spur line), from its connection with the main line track to the end of the spur line. The aforesaid line of Conrail crossed public highways, forming public crossings under the jurisdiction of the Commission. In its application Conrail sought to formally abolish the public crossings along the line, including where Gaskill Avenue and Harrison Avenue (State Route 0130 formerly known as Legislative Route 639 and Traffic Route 130) cross, at grade, the single track of Conrail.

By Order entered on October 28, 1987, the Commission directed Conrail to do all work necessary to abolish the at grade crossing (DOT 505 008 C) on Traffic Route 130 (Harrison Avenue; State Route 0130) by removing its railroad facilities, including rails, ties, and Crossbuck warning signs. By letter dated December 30, 1987, Conrail certified that the crossing was abolished in accordance with the subject Order. By Secretarial Letter dated March 29, 1989, the record was closed in the proceeding docketed at A-00107189.

Because no transcripts or other records exist, it is not known why the Commission did not address the Gaskill Avenue crossing (DOT 505 007 V) in its Order entered on October 28, 1987. Further, it is not known why Conrail did not remove its facilities from the at grade crossing (DOT 505 008 C) on Harrison Avenue (State Route 0130) as directed by our Order.

An informal field investigation and conference was arranged by a Commission staff engineer and held on October 21, 2024, at the sites of the subject crossings to discuss the disposition of the crossings. Representatives of the Pennsylvania Department of Transportation, City of Jeannette, Elliott and Norfolk Southern Railway Company attended.

At the informal field conference, Elliott averred that it now owns the property formerly owned by Conrail for the spur line which provided service to its facility in the past. Elliott does not presently use the tracks and has no future plans to receive rail service. Norfolk Southern Railway Company (Norfolk Southern), successor to Conrail for the main line connection researched its records and determined that it does not own any of the spur line property at the crossings. Based on aerial imagery, the switch from the Norfolk Southern main line to the spur connection was removed sometime between April 2016 and September 2019, therefore, train traffic can no longer access the spur line.

The diagnostic team discussed the disposition of the at grade crossings in detail at the informal field conference and determined that the crossings can be removed and formally abolished. Elliott agreed that they would be the responsible party to remove and dispose of the crossing surface, rails, ties, any unsuitable road base and any warning devices at the crossings and restore the roadway in-kind to match the existing pavement. The City of Jeannette (City) has on-going roadway projects in the area of the crossings and suggested that it may be able to bid out the work needed to abolish the crossings as a special provision item and invoice Elliott for the cost of the work. This work will not take place until Spring or Summer of 2025.

While exact details are being worked out to abolish the crossings, the diagnostic team determined that it is desirable to install “EXEMPT” signs at the subject crossings to reduce the traffic back up due to school buses and certain commercial vehicles stopping at the crossings. In accordance with the Vehicles Code 75 Pa. C.S. § 3342(c)(5), the installation of “EXEMPT” signs at the crossings will eliminate the requirement for certain vehicles (see 75 Pa. C.S. §3342(b)) from stopping at the crossings. The City agreed to procure the necessary signs, at their sole cost and expense. Elliott agreed to install the necessary signs, at their sole cost and expense. On October 29, 2024, by electronic mail, Elliot provided digital photographs to a Commission staff engineer for the completed installation of the “EXEMPT” signs.

On November 12, 2024, a Commission staff engineer held a conference call with the City and Elliott to discuss the outstanding details involved herein. Elliott preferred to obtain its own contractor to perform the work required to abolish the crossings, rather than have the City competitively bid the work needed to abolish the crossings as a special provision item and invoice Elliott for the cost of the work. Elliott, having agreed to do so, at its sole cost and expense, will furnish all material and do all work necessary to abolish the crossings.

It does not appear the facilities of non-carrier public utilities will be affected by the abolition. However, non-carrier public utility companies were not present at the field conference to determine the extent of their project involvement. So that the parties are afforded the opportunity to fully participate, we will direct the non-carrier public utility companies to perform their project work, if any, at their initial cost. The parties will then determine at a later date whether they have been adequately compensated for their project work and whether a hearing is needed to resolve any remaining issues.

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

Upon full consideration of the matters involved and inasmuch as no objection has been filed with the Commission and no party in attendance at the field conference objected to the proposed improvements as discussed, we find that a Secretarial Letter can be issued approving the abolition of the crossings without a formal hearing.

The Commission issues this Secretarial Letter in accordance with Section 2702 of the Public Utility Code and finds that the abolition of the crossings are necessary and proper for the service, accommodation, convenience or safety of the public, THEREFORE:

1. The crossings (DOT 505 007 V and DOT 505 008 C) where Gaskill Avenue and State Route 0130 (Harrison Avenue) cross, at grade, one (1) track of Ebara Elliott Energy located in the City of Jeannette, Westmoreland County be and are hereby abolished upon satisfactory completion of the work herein directed.

2. The action taken by Ebara Elliott Energy to alter the Gaskill Avenue and State Route 0130 (Harrison Avenue) crossings (DOT 505 007 V and DOT 505 008 C) by the installation of “EXEMPT” plaques (R15-3P and W10-1aP) to the existing Crossbuck and Grade Crossing Advance Warning sign supports at the crossings, be and is hereby affirmed.

3. City of Jeannette, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the highway-rail Grade Crossing Advance Warning (W10-1) signs and “EXEMPT” plaques (W10-1aP) on the approaches to the crossings (DOT 505 007 V and DOT 505 008 C) all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter, until such time the crossings are abolished.

4. Ebara Elliott Energy, having agreed to do so, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the “EXEMPT” plaques (R15-3P), and the Crossbuck assemblies, all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices this Secretarial Letter, until such time the crossings are abolished.

5. Ebara Elliott Energy, having agreed to do so, at its sole cost and expense, furnish all material and do all work necessary to: 1) remove and dispose of its existing railroad crossing surfaces, tracks, ties and any unsuitable road base material for the full width of the roadway, shoulder and sidewalk, 2) remove the existing highway-rail warning devices at the crossings, 3) restore the area of the highway disturbed by the track removal by providing a smooth and uniform roadway profile and placement of asphalt or other suitable material conforming to the abutting pavement in compliance with the City of Jeannette or Pennsylvania Department of Transportation criteria and/or specifications at the crossings (DOT 505 007 V and DOT 505 008 C).

6. City of Jeannete, at its sole cost and expense, furnish all material and do all work necessary to remove any advance warning signs associated with the highway-rail crossings (DOT 505 007 V and DOT 505 008 C) and any ancillary features thereof; all in accordance with this Secretarial Letter.

7. Any relocation of, changes in and/or removal of any adjacent structures, equipment or facilities of any non-carrier public utility or municipal authority, which may be required as incidental to the abolition of the crossings be made by said public utility or municipal authority at its initial cost, and in such a manner as will not interfere with the abolition of the crossings; and such relocated or altered facilities thereafter be maintained by said public utility at its sole cost and expense.

8. Ebara Elliott Energy, pay all compensation for damages, if any, due to owners of property taken, injured or destroyed by reason of the performance of its portion of work to abolish the crossings in accordance with this Secretarial Letter.

9. City of Jeannette, pay all compensation for damages, if any, due to owners of property taken, injured or destroyed by reason of the performance of its portion of work to abolish the crossings in accordance with this Secretarial Letter.

10. Ebara Elliott Energy provide at least ten (10) days advance notice of the start of work to abolish the crossings to each party involved in this proceeding.

11. All parties involved herein cooperate fully with each other so that during the time the work is being performed, vehicular and pedestrian traffic will not be endangered or unnecessarily inconvenienced and said requirements of each of the parties will be provided for and accommodated insofar as possible.

12. All work necessary to abolish the crossings be completed in a manner satisfactory to this Commission on or before October 31, 2025, and that on or before said date, Ebara Elliott Energy report in writing to this Commission the date of actual completion of the work.

13. This Secretarial Letter is without prejudice to the right of any party to recover all or part 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.

14. Upon completion of the abolition of the crossing, City of Jeannette, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the Gaskill Avenue roadway at the site of abolished former crossing (DOT 505 007 V) in a safe, smooth and satisfactory condition, all in accordance with this Secretarial Letter.

15. Upon completion of the abolition of the crossing, City of Jeannette, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the curbs, sidewalks, road base and drainage facilities at the site of abolished former crossing (DOT 505 008 C) and the approaches thereto along State Route 0130 (Harrison Avenue) in a safe and satisfactory condition, all in accordance with this Secretarial Letter.

16. Upon completion of the abolition of the crossing, Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the wearing surface (curb to curb) at the site of abolished former crossing (DOT 505 008 C) and the approaches thereto along State Route 0130 (Harrison Avenue) in a safe and satisfactory condition, all in accordance with this Secretarial Letter.

17. Upon completion of the abolition of the subject crossings, 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 former crossings.

18. 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 remaining costs incurred by the non-carrier utility companies and 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 fluid and cursive, with a large initial "R" and "C".

Rosemary Chiavetta
Secretary