



**COMMONWEALTH OF PENNSYLVANIA**  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET  
HARRISBURG, PENNSYLVANIA 17120  
November 22, 2024

IN REPLY PLEASE  
REFER TO OUR FILE

A-2024-3051094

**TO ALL PARTIES OF RECORD**

Application of Buffalo & Pittsburgh Railroad, Inc., for approval to reestablish the crossing surface at the public crossing (DOT 149 041 V) by removal of concrete barriers and the placement of an asphalt crossing surface where Etna Street crosses, at grade, the track of Buffalo & Pittsburgh Railroad, Inc., in the City of Butler, Butler County.

At a location in the City of Butler, Butler County, the track of Buffalo & Pittsburgh Railroad, Inc., crosses, at grade, Etna Street (City Street).

By application filed September 10, 2024, Buffalo & Pittsburgh Railroad, Inc., (B&P) seeks Commission affirmation nunc pro tunc and approval to reestablish the railroad crossing surface with a rail seal and asphalt railroad crossing surface.

As per B&P's application the existing crossing surface was removed in September 2021 thus closing the public crossing to all vehicular and pedestrian traffic. Concrete barriers were erected and put in place on the roadway approaches.

A field investigation and conference, arranged by a Commission staff engineer, was held at the site of the crossing on October 25, 2024, with the following parties in attendance:

Pennsylvania Department of Transportation (Department)  
Buffalo & Pittsburgh Railroad, Inc.,  
City of Butler  
PUC Bureau of Investigation and Enforcement

Although notified by letter sent by electronic mail on September 24, 2024, no representative from Butler County was in attendance.

At the field conference it was noted that Etna Street is a two-lane, bi-directional bituminous roadway. Etna Street is generally oriented in an east west direction and intersects Strawberry Street just south and adjacent to the crossing. There were no advanced railroad warning signs (W10-1) in place on the Etna Street or Strawberry Street approaches to the crossing.

The crossing is a passive crossing with post mounted crossbuck (R15-1) signs, yield signs (R1-2) and emergency notification signs (ENS) located before the crossing along each Etna Street approach. There are presently no sidewalk approaches to or through the crossing. It should be noted that the DOT number currently listed on the ENS signs are contrary to the logged DOT number with the U.S. DOT crossing Inventory form. The DOT number in the caption is consistent with the U.S. DOT crossing Inventory form. B&P representatives informed the Commission staff engineer that they would correct the discrepancy.

B&P has requested in their application to reestablish the crossing surface, remove the barriers and coordinate the reopening of the public crossing with the City of Butler (City).

The City was not involved with the closing and removal of the crossing surface and formally requested at the field conference that the crossing be reestablished and opened to all vehicular traffic as soon as possible.

It was noted at the field conference that vehicular traffic is using an unauthorized drive for ingress and egress to the Strawberry and Etna Street intersection thus fouling the tracks of the railroad at the public crossing (DOT 149 039 U) along Center Avenue. B&P and the City agreed to work together to restrict this access.

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

Buffalo & Pittsburgh Railroad, Inc., at their sole cost and expense, agrees to furnish all material and perform all the work necessary to reestablish the railroad crossing surface at the Etna Street public crossing (DOT 149 041 V).

Buffalo & Pittsburgh Railroad, Inc., at its sole cost and expense, agrees to furnish all material and do all the work necessary to establish and maintain any detours or traffic controls that may be required to accommodate highway vehicle and pedestrian traffic properly and safely during the time the crossing is being constructed.

Buffalo & Pittsburgh Railroad, Inc., at its sole cost and expense, agrees to furnish and maintain watchmen, flagmen and/or inspectors to protect and safeguard its railroad operations or facilities during project construction operations.

The Commission has tentatively established its jurisdictional limits at the subject crossing as the area within the confines of the railroad right-of-way and the highway right-of-way.

Buffalo & Pittsburgh Railroad, Inc., avers that a copy of the application has been served on all parties of interest. None of the parties has advised that it objects to the issuance of a Secretarial Letter approving the subject application.

Due to the public safety concerns that presently exist with the closing of this crossing, it was agreed by all parties present at the October 25, 2024, field conference to initiate the reestablishment of the highway/railroad crossing surface and removal of the concrete barriers as soon as possible and prior to the issuance of the Secretarial Letter memorializing the planned work, allocation of costs and future maintenance assignments.

Although work may immediately commence, any party may still file objections with the Commission within twenty (20) days. Those objections will be appropriately addressed under (52 PA. Code § Section 5.44). We note that all parties are in agreement with the terms and conditions of this action.

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 and investigation conference objected to the proposed improvements as discussed, we find that a Secretarial Letter can be issued approving the application without a formal hearing.

The Commission issues this Secretarial Letter in accordance with Section 2702 of the Public Utility Code and finds that the reestablishment of the subject crossing is necessary and proper for the service, accommodation, convenience and safety of the public.

The application of Buffalo & Pittsburgh Railroad, Inc., Inc. is approved as herein directed:

1. The caption of the subject proceeding is hereby revised as shown herein.
2. The public crossing (DOT 149 041 V) where Etna Street crosses, at grade, the track of Buffalo & Pittsburgh Railroad, Inc., in the City of Butler, Butler County, be reestablished and or approved as herein directed.
3. Buffalo & Pittsburgh Railroad, Inc., having agreed to do so, at its sole cost and expense, furnish all material and perform all work necessary to reestablish the Etna Street public crossing (DOT 149 041 V) by constructing an asphalt and rail seal crossing surface to extend in width to accommodate the roadway and shoulders on each side of the crossing surface and in addition restoring the roadway pavement with in-kind material to provide a safe, smooth and satisfactory condition in accordance with standard roadway construction specifications and this Secretarial Letter.
4. Buffalo & Pittsburgh Railroad, Inc., 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 project 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.
5. Buffalo & Pittsburgh Railroad, Inc., at its sole cost and expense, furnish all material and perform all work necessary to establish and maintain any detours or traffic controls that may be required to properly and safely accommodate highway and pedestrian traffic during the time the crossing is being altered.
6. City of Butler, having agreed to do so, at its sole cost and expense, furnish all material and perform all work necessary to erect the advanced railroad warning signs (W10-1) on each Etna Street roadway approach and the Strawberry Street approach to the public crossing (DOT 149 041 V).

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

8. 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.

9. Buffalo & Pittsburgh Railroad, Inc., having agreed to do so and in concurrence with the City of Butler and all parties present at the October 25, 2024, field conference, shall immediately begin to reestablish the highway/rail crossing surface and open the public crossing to all vehicular and pedestrian traffic.

10. All work necessary to complete the reestablishment of the highway/railroad crossing surface be done in a manner satisfactory to this Commission on or before November 30, 2024, and that on or before said date, Buffalo & Pittsburgh Railroad, Inc., notify this Commission by electronic mail the date of actual completed work.

11. Upon completion of work a final inspection will be arranged by the Commission's Bureau of Technical Utilities, Rail Safety Division, to determine the acceptability of work completed and if there are any additional or outstanding issues for the Commission to consider related to this docketed proceeding.

12. Buffalo & Pittsburgh Railroad, Inc., pay all compensation for damages, if any, due to owners of property taken, injured or destroyed by reason of the construction of the crossing surface in accordance with this Secretarial Letter.

13. Each non-carrier public utility company, at its sole cost and expense, furnish all material and perform all work required hereafter to maintain their respective facilities through the area of the former crossing.

14. Upon completion of work of the subject highway/rail crossing, Buffalo & Pittsburgh Railroad, Inc., at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain its railroad facilities including the mast pole supports, crossbuck signs (R15-1), Emergency Notification Signs, and to maintain at all times in a safe, smooth and satisfactory condition the crossing surface for the full width of the roadway and shoulders located between the rails and for a distance of twenty-four (24) inches beyond the outermost rails at the subject crossing, and to provide the City of Butler at least ten (10) days advance notice when performing any work as directed by this paragraph that may affect the facilities of the other parties, all in accordance with the Manual on Uniform Traffic Control Devices and this Secretarial Letter.

15. Upon completion of the work of the subject highway/rail crossing, City of Butler, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the highway approach roadways, up to points twenty-four (24) inches beyond each outside rail in a safe, smooth and satisfactory condition and in addition to maintain the advanced railroad warning signs (W10-1) located on the Etna Street approaches and Strawberry Street approach, and provide Buffalo & Pittsburgh Railroad, Inc., 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 Manual on Uniform Traffic Control Devices, approved plans and this Secretarial Letter.

16. 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.

17. 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 cursive script, reading "Rosemary Chiavetta". The signature is written in black ink and is positioned above the printed name.

Rosemary Chiavetta  
Secretary