



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

IN REPLY PLEASE  
REFER TO OUR FILE

January 3, 2025

A-2023-3040790

**TO ALL PARTIES OF RECORD**

Assignment of future maintenance responsibilities for additional railroad regulatory grade crossing signs and traffic control measures to be installed where State Route 2022 (Benjamin Franklin Highway) at public crossing (DOT 958 863 P) crosses, at grade, the track of H&K Group, Inc., operated thereon by Norfolk Southern Railway Company, located in Douglass Township, Berks County.

To Whom It May Concern:

This matter is before us by reason of an informal complaint filed by a High Point Baptist Academy school bus driver through the Department of Transportation of the Commonwealth of Pennsylvania's (Department) online Customer Care Center (Reference Number 20230331-CQFKH3). The informal complaint alleges that an unsafe condition exists because school busses are forced to stop in advance of the crossing within the signalized intersection at State Route (S.R.) 2022 and Quarry Road (T-444) located in Douglass Township, Berks County. Additionally, the complaint states that the subject track line is unused but not deemed "out of service". On April 3, 2023, the Department via email forwarded the informal complaint to the Commission.

Following receipt of the informal complaint, an informal field investigation and conference was arranged by a Commission staff engineer and held on April 19, 2023, at the site of the subject public crossing with representatives of the Department, H&K Group, Inc., and High Point Baptist Academy in attendance. Although notified via email dated April 13, 2023, there were no representatives from Norfolk Southern Railway Company (NS), Berks County, or Douglass Township in attendance.

On May 22, 2023, the subject proceeding was initiated by the Bureau of Technical Utility Services Rail Safety Section to address the safety concerns brought to the Commission's attention by the informal complaint of High Point Baptist Academy and to memorialize the assignment of future maintenance responsibilities at the subject public crossing.

Following the initial informal field investigation and conference and initiation of the subject proceeding a subsequent formal field investigation and conference was arranged by a Commission staff engineer and held on June 7, 2023, at the site of the subject public crossing with representatives of the Department, NS, H&K Group, Inc., Douglass Township, and High Point Baptist Academy in attendance. Although notified by letter sent via email dated May 23, 2023, there were no representatives from Berks County in attendance.

At the field conferences, it was noted that S.R 2022 (Benjamin Franklin Highway) crosses, at grade, a single industrial sidetrack of H&K Group, Inc., operated thereon by Norfolk Southern Railway Company (DOT 958 863 P), located in Douglass Township, Berks County. The approach roadway to the crossing on S.R 2022 (Benjamin Franklin Highway) is a four (4) lane, two (2) way, asphalt paved roadway with shoulders and a center left turn lane in both directions. Quarry Road (T-444) intersects S.R 2022 (Benjamin Franklin Highway) on the east side of the crossing with vehicular and pedestrian traffic movements controlled by traffic signals. S.R 2022 (Benjamin Franklin Highway) and Quarry Road (T-444) east of the crossing both have raised curbs but no sidewalks. The existing railroad crossing consists of a non-standard concrete high-type crossing surface and is equipped with existing railroad warning facilities comprised of Crossbuck (R15-1) signs only. Existing safety features of the approach roadway consist of grade crossing advanced warning (W10-1) signs, grade crossing pavement markings, and stop lines. Pursuant to Part 8 of the current addition of the Manual on Uniform Traffic Control Devices (MUTCD) the existing Crossbuck Assembly at the subject crossing is to be equipped with 2-inch wide retroreflective tape on the sign mast, "Yield" (R1-2) signs, and emergency notification (I-13) signs which were all noted as being missing. It was also noted that a large pile of crushed aggregate had been placed on the track immediately to the south of the crossing.

The posted speed limit of S.R 2022 (Benjamin Franklin Highway) is 45 miles per hour (mph) with an Average Daily Traffic (ADT) count of 6,861 vehicles and 9% truck traffic based on publicly available records. The industrial sidetrack serves H&K Group, Inc. at their Douglassville Quarry location. According to the Federal Railroad Administration's grade crossing inventory database the crossing is located at milepost 42.95 on NS's Harrisburg Line. Train movements were last recorded in 2015 to be 2 trains per week at a maximum timetable speed of 10 miles per hour. By email received by a Commission staff engineer on November 11, 2024, H&K Group, Inc. averred that the last rail service provided by NS at the Douglassville Quarry was 50 train cars on May 25, 2017.

By email dated November 9, 2023, H&K Group, Inc. provided a Commission staff engineer with an existing private agreement dated December 1, 1985, entered into between the Reading Company and Pottstown Trap Rock Quarries, Inc. regarding service to the industry and maintenance of the subject crossing. NS is the successor and current operating railroad which provides rail service to the owner of the crossing and successor industry H&K Group, Inc. by way of the industrial sidetrack. This Secretarial Letter is without prejudice to the right of any party to recover costs its incurred in performing work associated with this Secretarial Letter, and in accordance with any lawful agreement between parties. The terms of said agreement do not preclude the Commission from taking any action necessary to protect public interest.

Following the field conferences a Commission staff engineer conducted multiple conference calls with the Department and NS to further discuss the addition of missing safety facilities, making the crossing "Exempt", and future maintenance responsibilities at the crossing. On August 15, 2024, the proposed "Exempt" status of the subject crossing was again discussed with the Department and NS during a conference call, at which time NS indicated that it would be agreeable to the installation of "Exempt" plaques at the crossing so long as the line did not receive active rail service.

Pursuant to Pennsylvania Title 75 § 3342 certain vehicles, including school buses and truck and tractor combinations carrying hazardous materials, before crossing at grade tracks of any railroad must stop, listen, and look in both directions along the tracks for any approaching trains or signals indicating an approaching train. Once deemed to be safe, the stopped vehicle can proceed to cross the tracks but may not manually shift gears while traversing the crossing. Various exceptions to the stopping requirement are outlined within the subsection, one such exception is an industrial or spur line marked as “Exempt” with the consent of the Pennsylvania Public Utility Commission.

The safety concerns brought forward by High Point Baptist Academy were discussed in detail during the field conferences and conference calls with all attending parties. Given the apparent risk of impact by a vehicle to a stopped school bus or semi-truck and trailer hauling hazardous materials at the signalized intersection, the lack of active rail service, and the uncertainty as to when active rail service at the Douglassville Quarry would be re-established, the Department and the Commission are in favor of the crossing being made “Exempt”.

H&K Group, Inc., having agreed to do so at its sole cost and expense, agrees to install “Exempt” (R15-3P) plaques on the Crossbuck Assemblies at the subject crossing in addition to update the Crossbuck Assemblies to meet current MUTCD standards with the addition of retroreflective tape on the masts, “Yield” (R1-2) signs, and emergency notification (I-13) signs.

The Department, at its sole cost and expense, agrees to update its existing approach roadway grade crossing advanced warning (W10-1) signs with the addition of “Exempt” (W10-1aP) plaques.

By Secretarial Letter dated June 27, 2016, docketed at M-2016-2547263, NS was directed to maintain the railroad facilities at the subject crossing including signs, appurtenant equipment, and the crossing surface, at its sole cost and expense. NS will be directed to continue to maintain the railroad facilities at the subject crossing, at its sole cost and expense.

If in the future active rail service to H&K Gorup, Inc. or any other successor industry served by the subject line is to be re-established an application to the Commission is to be made for reconsideration of the “Exempt” status of the crossing.

The Commission hereby establishes 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.

The proposed alteration was discussed in detail at the field conferences and conference calls with all attending parties of record and none have advised that they object to the issuance of a Secretarial Letter, prior to hearing, approving the alteration of the crossing.

The Commission has exclusive jurisdiction in crossing alterations and is the final arbiter of any fees associated with a crossing application. Any conditions, including fees associated with a crossing application, must be approved by the Commission.

Upon full consideration of the matters involved, we determine that it is not necessary to schedule a hearing in this proceeding at this time and that issuance of Secretarial Letter without a hearing is proper since none of the parties has expressed any objections to the proposal.

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

1. The caption of the subject proceeding is hereby revised as shown herein.
2. The public crossing (DOT 958 863 P) where State Route 2022 (Benjamin Franklin Highway) crosses, at grade, a single track of H&K Group, Inc., operated thereon by Norfolk Southern Railway Company in Douglass Township, Berks County be altered as herein directed.
3. H&K Group, Inc., having agreed to do so at its sole cost and expense, furnish all material and perform all work necessary to install “Exempt” (R15-3P) plaques on the Crossbuck Assemblies at the subject crossing in addition to update the Crossbuck Assemblies to meet current standards by adding retroreflective tape on the masts, “Yield” (R1-2) signs, and emergency notification (I-13) signs, all in accordance with Part 8 of the current addition of the Manual on Uniform Traffic Control Devices this Secretarial Letter.
4. H&K Group, Inc., having agreed to do so 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 vehicular and pedestrian traffic during the time the work is being performed.
5. The Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and perform all work necessary to install “Exempt” (W10-1aP) plaques with the existing grade crossing advanced warning (W10-1) signs on the roadway approaches to the subject crossing, all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices this Secretarial Letter.
6. Norfolk Southern Railway Company, at the sole cost and expense of H&K Group, Inc., furnish all material and perform all work relating to the railroad 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.
7. Any relocation of, 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 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 alteration of the crossing; and such relocated or altered facilities thereafter be maintained by said public utility or municipal authority at its sole cost and expense.
8. H&K Group, Inc. and the Pennsylvania Department of Transportation, at each party’s respective sole cost and expense, pay all compensation for damages, if any, due to the owners of property taken, injured, or destroyed by reason of each parties respective work to the alter the crossing in accordance with this Secretarial Letter.

9. Any relocation of, changes in and/or removal of any adjacent structures, equipment or 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.

10. 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.

11. The alteration of the crossing be completed on or before June 30, 2025, and that on or before said date H&K Group, Inc., report in writing the date of actual completion of the work to this Commission and certify to the parties of record and this Commission that the work has been satisfactorily completed in accordance with this Secretarial Letter.

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

13. The terms of any existing agreement or agreement established in accordance with this Secretarial Letter shall not preclude the Pennsylvania Public Utility Commission from taking any action necessary to protect the public interest, including but not limited to the reassignment or enforcement of any costs or responsibilities assigned or transferred as a result of this Secretarial Letter.

14. Norfolk Southern Railway Company or any railroad operator utilizing the subject line provide that each and every movement of each locomotive, car or train across the track at the subject crossing be properly attached to and propelled or retarded by a locomotive, and that a member of the train crew equipped with a red flag during daylight hours and a lighted fusee during the hours of darkness, precede on the ground each and every movement of each locomotive, car or train across the highway at the crossing to properly warn the traveling public of the approach of such locomotive, car or train.

15. Upon completion of the alteration of the crossing, H&K Group, Inc., notify local emergency management services and the local school district of the installation of the "Exempt" (R15-3P) plaques at the subject public crossing (DOT 958 863 P).

16. Upon completion of the alteration of the crossing, Norfolk Southern Railway Company, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the railroad facilities at the subject crossing, including the warning devices and all appurtenant equipment, and maintain at all times in a safe, smooth and satisfactory condition the concrete high-type crossing surface; all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter, and provide the Pennsylvania Department of Transportation, H&K Group, Inc., and Douglass Township at least ten (10) business days advance notice when performing any work as directed by this paragraph that may affect their facilities.

17. Upon completion of the alteration of the crossing, H&K Group, Inc, having agreed to do so at its sole cost and expense, reimburse Norfolk Southern Railway Company for any costs incurred in the furnishment of materials and performance of work necessary to maintain the railroad facilities at the subject crossing in accordance with this Secretarial Letter and pursuant to any legal agreements between the parties.

18. Upon completion of the alteration of the crossing, the Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the highway approach roadway of the subject crossing up to the concrete high-type crossing surface, and in addition, maintain the grade crossing advance warning (W10-1) signs, "Exempt" (W10-1aP) plaques, pavement markings, and stop lines; all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter, and provide Norfolk Southern Railway Company, H&K Group, Inc., and Douglass Township at least ten (10) business days advance notice when performing any work as directed by this paragraph that may affect their facilities.

19. 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 improvement.

20. 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 costs incurred by the non-carrier utility companies and municipal authorities and other matters relevant to this proceeding.

21. Any party seeking to reestablish active rail service on the subject line make an application with the Pennsylvania Public Utility Commission for reconsideration of the "Exempt" status of the crossing.

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.

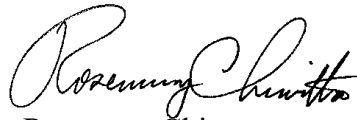
All formal documents must be filed with the Secretary of the Commission. Documents must be eFiled, mailed or hand delivered. All filings should be addressed to the Secretary, PA Public Utility Commission, 400 North Street, Harrisburg, PA 17120. The Commission will not accept documents delivered by fax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

Sincerely,

A handwritten signature in cursive script that reads "Rosemary Chiavetta".

Rosemary Chiavetta  
Secretary