



**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-2023-3041598

**TO ALL PARTIES OF RECORD**

Application of CSX Transportation, Inc., for approval to alter the public crossings on East Bay Drive (DOT 918 325 Y), and East Bayfront Parkway (DOT 918 322 D) where they cross, at-grade, a track of CSX Transportation, Inc., and the crossings on Ore Dock Road (DOT 976 924 B) and (DOT 932 473 C), where they cross, at-grade, a track of Erie-Western Pennsylvania Port Authority, all in the City of Erie, Erie County.

To Whom It May Concern:

The matter is before us, by reason of an application filed on July 3, 2023, by CSX Transportation, Inc. (CSXT), seeking Commission approval to alter the public crossings on East Bay Drive (DOT 918 325 Y), and East Bayfront Parkway (DOT 918 322 D) where they cross, at-grade, a track of CSX Transportation, Inc., and the crossings on Ore Dock Road (DOT 976 924 B) and (DOT 932 473 C), where they cross, at-grade, a track of Erie-Western Pennsylvania Port Authority, all in the City of Erie, Erie County.

At the existing public at-grade crossing (DOT 918 325 Y) East Bay Drive is a two-lane asphalt roadway. The roadway crosses, at-grade, a single track of CSXT. The crossing has a timber and asphalt crossing surface. The warning facilities on the approaches to the crossing consist of flashing-light warning signals, gates and a bell but have no stop lines or advance warning (W10-1) signs.

At the existing public at-grade crossing (DOT 918 322 D), East Bayfront Parkway (S.R. 4034) is a three-lane concrete roadway, consisting of two through lanes and a center turning lane, with curbing and has a parallel paved asphalt multi-use trail (the Bayfront Bikeway) along the northern side. The roadway and multi-use trail cross, at grade, a single track of CSXT with a rubber flangeway and asphalt crossing surface. The warning facilities on the approaches to the crossing consist of cantilevered flashing-light warning signals, bell, stop lines, pavement markings, and advance warning (W10-1) signs.

At the two (2) existing at-grade crossings (DOT 976 924 B) and (DOT 932 473 C), Ore Dock Road is a two-lane asphalt roadway. The roadway crosses, at-grade, a single track of Erie-Western Pennsylvania Port Authority at two (2) locations. Both crossings have concrete panel crossing surfaces. The minimum warning facilities on the approaches to the crossings should consist of crossbucks (R15-1) signs and advance warning (W10-1) signs. Each crossing was missing some or all of these signs.

In the application, CSXT stated that they no longer use or operate these crossings to service any rail customers and proposed to have all four (4) subject crossings abolished. CSXT represented that the Pennsylvania Department of Transportation (Department) remove the tracks, crossing surfaces and warning facilities at the four (4) subject crossings and to restore the road surfaces at the Departments sole cost and expense.

On July 20, 2023, a protest to the application was filed with the Commission by the Erie-Western Pennsylvania Port Authority. Additional protests were filed on August 1, 2023, by the Erie Sewer Authority and on August 3, 2023, by the City of Erie and the Department. This matter and additional matters involved in two other related proceedings were referred to the Office of Administrative Law Judge for resolution.

A telephonic prehearing conference was held on November 9, 2023, regarding the matters docketed at A-2022-3036626, A-2023-3041598, and A-2022-3036618. The prehearing conference was held with CSXT, PENNDOT, the City of Erie, the Erie-Western Pennsylvania Port Authority, and the Pennsylvania Public Utility Commission (PUC) Bureau of Investigation and Enforcement in attendance, with an Administrative Law Judge (ALJ) presiding. The ALJ stated that due to their similarity, that the three (3) proceedings would be consolidated into one docket. The parties agreed to the consolidation and further agreed to submit a Joint Petition for Settlement no later than January 31, 2024.

On January 17, 2024, the Department, CSXT, City of Erie, the Erie Sewer Authority and the Erie-Western Pennsylvania Port Authority filed a Settlement Term Sheet to the ALJ for consideration. The parties agreed to the following settlement terms for the four (4) subject crossings in this proceeding.

The public rail crossing on East Bay Drive (DOT 918 325 Y) shall be suspended. CSXT, at its sole cost and expense, will remove the post-mounted flashing light warning signals, gates, bell, rails, ties, ballast and the crossing surface for the full width of the roadway and restore the road surface on East Bay Drive with full depth asphalt paving.

The public rail crossing on East Bayfront Parkway (DOT 918 322 D), shall not be abolished or suspended. The City, at its sole cost and expense, shall maintain all railroad warning devices and the railroad crossing surface to two feet outside of existing rails and all area in between for the full width of roadway, shoulders and multi-use trail.

The two (2) rail crossings on Ore Dock Road (DOT 976 924 B) and (DOT 932 473 C) shall not be abolished or suspended. The City, at its sole cost and expense, shall have the installation and maintenance requirements for the crossbucks (R15-1) signs, and grade crossing advance warning (W10-1) signs and maintenance of the approach roadways.

By Order entered April 4, 2024, the Protest and Objections of the parties were deemed to be satisfied, the Joint Petition for Settlement of the Applications was approved without modification, and the proceeding was reassigned to the Commission's Bureau of Technical Utility Services, Rail Safety Section for the issuance of a Secretarial Letter setting forth the Parties' settlement terms and required paragraphs.

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

Upon full consideration of the matters involved and inasmuch as no objections have been filed with the Commission, we find that a Secretarial Letter can be issued approving the application.

The Commission issues this Secretarial Letter in accordance with Section 2702 of the Public Utility Code and finds that the previously approved Joint Petition for Settlement of terms associated with this application are necessary and proper for the service, accommodation, convenience or safety of the public.

The application of CSX Transportation, Inc., is approved as herein directed:

1. The caption of the subject proceeding is hereby revised as shown herein.
2. Upon satisfactory completion of the work herein directed, the alteration of the four (4) subject crossings by the suspension of the public crossing on East Bay Drive (DOT 918 325 Y) and reassignment of the maintenance responsibilities for the three (3) public crossings on East Bayfront Parkway (DOT 918 322 D) and Ore Dock Road (DOT 976 924 B) and (DOT 932 473 C), are approved as herein directed.
3. CSX Transportation, Inc., at its sole cost and expense, furnish all material and do all work necessary to suspend the public crossing on East Bay Drive (DOT 918 325 Y) by removing the post-mounted flashing light warning signals, gates, bell, rails, ties, ballast and the crossing surface for the full width of the roadway and restore the road surface on East Bay Drive with full depth asphalt paving.
4. CSX Transportation Inc., at its sole cost and expense, furnish any watchmen, flagmen, inspectors and/or engineering services deemed necessary to protect its railroad facilities or operations during the time the project is being constructed.
5. CSX Transportation Inc., at its sole cost and expense, pay all compensation for damages, if any, due to owners of property taken, injured or destroyed by reason of their work described herein for the suspension of the public crossing (DOT 918 325 Y), on East Bay Drive in accordance with this Secretarial Letter.

6. City of Erie, at its sole cost and expense, furnish all material and do all work necessary to install the crossbucks (R15-1) signs, and grade crossing advance warning (W10-1) signs, where missing at and along each roadway approach for the two (2) rail crossings on Ore Dock Road (DOT 976 924 B) and (DOT 932 473 C).

7. City of Erie, at its sole cost and expense, pay all compensation for damages, if any, due to owners of property taken, injured or destroyed by reason of their work described herein in accordance with this Secretarial Letter.

8. Any relocation of, changes in and/or removal of any adjacent structures, equipment or other facilities of any non-carrier public utility company, which may be required as incidental to the alteration of the crossing, be made by said public utility 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 at its sole cost and expense.

9. All parties involved herein cooperate fully and coordinate work 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.

10. CSX Transportation Inc., at least fourteen (14) days prior to the start of work, notify all parties in interest of the actual date on which work will begin.

11. 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.

12. The terms of any 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.

13. This Secretarial Letter is without prejudice to CSX Transportation Inc.'s right to reactivate the subject line at the suspended public crossing on East Bay Drive (DOT 918 325 Y), upon due notice to all parties of record and the Commission by application.

14. All work necessary to alter the crossing be completed in a manner satisfactory to this Commission on or before December 31, 2025, and that on or before said date, CSX Transportation Inc., report in writing to this Commission the date of actual completion of the work.

15. 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; all in accordance with the provisions of this Secretarial Letter.

16. Upon completion of the suspension of the public crossing on East Bay Drive (DOT 918 325 Y), the City of Erie, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the highway at the site of the suspended crossing in a safe, smooth, and satisfactory condition, exclusive of the facilities of any carrier or non-carrier public utility, all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter.

17. The City of Erie, at its sole cost and expense, furnish all material and perform all work necessary hereafter to maintain the railroad facilities at the two (2) crossings on Ore Dock Road (DOT 976 924 B) and (DOT 932 473 C), including the crossbucks (R15-1) signs, grade crossing advance warning (W10-1) signs, and to maintain at all times in a safe, smooth and satisfactory condition the concrete panel crossing surfaces and the highway approaches up to the concrete panel crossing surfaces in a smooth, safe and satisfactory condition, all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter.

18. The City of Erie, at its sole cost and expense, furnish all material and perform all work necessary hereafter to maintain the railroad facilities at the crossing on East Bayfront Parkway (DOT 918 322 D), including the cantilevered flashing-light warning signals, bell and all appurtenant equipment and to maintain, in a safe, smooth and satisfactory condition, the railroad crossing surface located between the rails and for a distance of twenty-four (24) inches beyond the outermost rails, 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, at least ten (10) business days advance notice when performing any work that may affect their facilities, as directed by this paragraph..

19. The Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the East Bayfront Parkway approach roadways of the subject crossing (DOT 918 322 D), to points twenty-four (24) inches beyond each outside rail and in addition, maintain the grade crossing advance warning signs, stop lines and pavement markings, if required, all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter, and provide the City of Erie, at least ten (10) business days advance notice when performing any work that may affect their facilities, as directed by this paragraph.

20. Upon the Commission receiving written notice from CSX Transportation, Inc., of the completion of the work ordered herein and after a final inspection of the work has been completed and deemed satisfactory by the Commission's Bureau of Technical Utility Services, Rail Safety Section, and that there are no outstanding issues, the public crossing on East Bay Drive (DOT 918 325 Y) be and hereby be suspended.

21. 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.

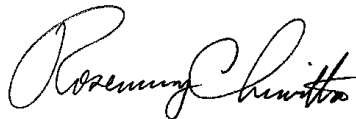
All formal documents must be filed with the Secretary of the Commission. Documents must be eFiled, mailed or hand delivered. All filings should be addressed to the Secretary, PA Public Utility Commission, 400 North Street, Harrisburg, PA 17120. The Commission will not accept documents delivered by fax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

Sincerely,



Rosemary Chiavetta  
Secretary