



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET
HARRISBURG, PENNSYLVANIA 17120
April 2, 2025

IN REPLY PLEASE
REFER TO OUR FILE
C-2019-3015101

RE: Complaint filed by the Borough of Eddystone versus Consolidated Rail Corporation & CSX Transportation Inc., alleging falling debris from the railroad overpasses onto the public sidewalk and other issues at the public crossing (DOT 541 055 F) where Eddystone Avenue crosses, below grade, the tracks of Consolidated Rail Corporation located in the Borough of Eddystone, Delaware County
Docket No. C-2019-3015101

TO THE PARTIES OF RECORD:

On December 23, 2019, the Borough of Eddystone (Complainant) filed a Formal Complaint (Complaint) against Consolidated Rail Corporation (Conrail) & CSX Transportation Inc. (CSX) alleging various issues within the public crossing at DOT 541 055 F.

On January 16, 2020, Conrail through its undersigned counsel filed an Answer with New Matter. Within the New Matter, Conrail stated that they had inspected the retaining wall in question and removed two stone blocks that had fallen off. Conrail further found the remaining wall in stable condition and found no evidence of silt and debris within the Complainant's drainage facilities that originated from Conrail property and/or facilities.

Subsequently, numerous informal attempts were made by a Commission staff engineer to determine satisfaction or otherwise with the Complainant in regard to the work performed by Conrail to satisfy the Complaint. To date, nothing has been filed on the record under this proceeding by the Borough of Eddystone in regard to prosecution or satisfaction of this Complaint.

On May 17, 2024, a Commission staff engineer sent a query letter to the Borough of Eddystone pertaining to the status of the Complaint. Namely, the staff engineer sought a response by the Complainant regarding the work performed by the Conrail and the Complainant's satisfaction thereto or its desire to prosecute the Complaint.

As of December 9, 2024, the Borough of Eddystone has not responded on record or to Commission staff after numerous attempts by Commission staff pertaining to the status of the Complaint and the work performed.

In the interest of the public, on December 9, 2024, the Commission issued a Secretarial Letter (*December 2024 Secretarial Letter*), that would either serve to close the case and deem it satisfied or to elicit a formal response stating otherwise on the record from the Complainant within twenty (20) days of the date of this *December 2024 Secretarial Letter*, in accordance with Section 703 of the Public Utility Code, 66 Pa.C.S. § 703. The *December 2024 Secretarial Letter* indicated that if no formal response to the letter was received, the Complaint would be deemed satisfied and the case would be “CLOSED.”

In addition, the Parties were reminded that failure to comply with the *December 2024 Secretarial Letter* 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.

Furthermore, the Parties were reminded, *inter alia*, that all formal documents must be filed with the Secretary of the Commission and in accordance with the Commission’s filing procedures/efiling as well as the procedures for filing confidential material.

Finally, the Parties were instructed that if they were dissatisfied with the resolution of this matter, they may, as set forth in 52 Pa. Code §§ 1.31 and 5.44, file a Petition for Reconsideration from Staff Action with the Commission within twenty (20) days of the date of this letter. The *December 2024 Secretarial Letter* indicated that such Petition shall be either be eFiled with or mailed to the Secretary of the Commission at the address set forth in the letter 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.

On December 26, 2024, the Complainant filed a Petition for Reconsideration from Staff Action (Petition) regarding the action set forth in the *December 2024 Secretarial Letter*.

Based upon review of the procedural posture of this matter, we shall refer this matter to the Office of Administrative Law Judge (OALJ) for any appropriate action deemed necessary. Given that the purpose of the *December 2024 Secretarial Letter* was for the Parties to inform the Commission that either a resolution had been reached regarding the issue(s) raised in the Complaint or that they wished to proceed with the Complaint, the *December 2024 Secretarial Letter* was not a final action/decision by the Commission. Consequently, since there was no final action, the language instructing the Parties to file a Petition for Reconsideration from Staff Action set forth in the Commission’s Regulations was inadvertently included in the *December 2024 Secretarial Letter*. Therefore, we shall deem the Petition to be an inappropriate filing at this juncture of the proceeding. However, given the status and nature of the current proceeding we

will refer this matter to the OALJ for any appropriate action regarding the Complaint as deemed necessary consistent with this Secretarial Letter.

Should you have any questions you may contact the Commission's Office of Special Assistants at 717-787-1827.

Sincerely,

A handwritten signature in cursive script that reads "Rosemary Chiavetta". The signature is written in black ink and is positioned above the printed name.

Rosemary Chiavetta
Secretary