

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the American Recovery and )  
Reinvestment Act of 2009--Wheeling & Lake ) Case No. 09-995-RR-FED  
Erie Railway Corridor Project, City of )  
Hartville and Surrounding Area, Portage and )  
Stark Counties.

ENTRY

The Commission finds:

- (1) On October 27, 2009, the Commission's railroad staff filed a memorandum stating that The Ohio Rail Development Commission (ORDC) has encumbered funding provided by the American Recovery and Reinvestment Act of 2009 (ARRA) to upgrade the following crossings to flashing lights and roadway gates:

Portage County, Manning Rd, TR 2, Suffield  
Township, DOT# 472-632K

Stark County, Maple Street, SR 619, Village of  
Hartville, DOT#472-624T

Stark County, N. Prospect Avenue., CR 56,  
Village of Hartville, DOT#472-625A

Staff stated that the crossings were surveyed on March 17, 2009 and were found to warrant the upgrades. The surveys also determined that Maple Street and North Prospect Avenue crossings should be interconnected with highway traffic signals and will require traffic preemption.

- (2) In its memorandum, staff stated that these projects are actual cost and that ARRA reimbursable costs shall not exceed \$600,000. Staff noted that any costs exceeding the ARRA funding shall be reimbursed from ORDC's Safety Fund to a cap of \$1,250,000. Further, should the costs exceed this amount due to traffic preemption, ARRA funding, requested under a separate project, may be used.

- (3) In addition, staff requested that the following language be included in the entry ordering the crossing upgrades:

**ARRA FUNDED PROJECT**

Funding for this contract has been provided through the ARRA, and is subject to the reporting and operational requirements of ARRA. Each contractor, including the railroad and both prime and subcontractors, are subject to audit by federal or state authorities. Failure to comply with the terms herein may result in cancellation, termination, or suspension of the contract, in whole or in part.

- (4) Staff recommended that Wheeling & Lake Erie Railway (W&LE) submit site plans and cost estimates to the Commission and ORDC within 90 days.
- (5) Staff noted that ORDC is requesting that the Commission issue an 18-month order for completion of the projects due the traffic preemption and the significant coordination needed with the village of Hartville. Staff agreed that the necessary engineering and preemption requirements make the projects very complicated, and recommended that the railroad be granted the 18-month time period.
- (6) W&LE shall submit to the Commission and ORDC by February 10, 2010, site plans and cost estimates for the projects. Within seven days thereafter, W&LE shall file a letter in this docket advising that the site plans and costs estimates have been submitted to the Commission and ORDC. Following submission and approval of the site plans and cost estimates by ORDC, and, unless otherwise directed, W&LE is hereby authorized to acquire project materials and to commence construction as detailed in the letter of construction authorization. W&LE shall notify staff at least five working days before the date work is scheduled to begin at the sites of the projects so that arrangements can be made for inspections. In addition, W&LE shall notify staff of any changes in the scope of work, cost overruns, materials, etc., which are not in the approved plans and estimates and secure approval before the work is performed. The Commission will issue no further

construction authorization. Further, the construction of active warning devices at the grade crossings should be completed by May 11, 2011.

- (7) Within 120 days of the issuance of this entry, W&LE shall file in the docket notice that it has initiated discussions with the applicable public utility to ensure that electric service will be available to enable the grade crossing improvements to be constructed and placed in service within the deadline specified by the Commission. Such filing shall identify the steps W&LE has taken with the applicable public utility, government entity, and local highway authority to have electric service available during the construction and cut-in phases of the projects. W&LE shall serve a copy of the notice upon the public utility. To ensure that the deadline is met, W&LE shall timely inform the Commission, in writing, of any issues regarding the availability of electric service.
- (8) In order to expedite the activation of the warning devices, the Commission no longer requires railroad companies to delay such activation pending final inspection by staff. However, W&LE should notify staff and ORDC 30 days before the projected date of completion. At the time the Commission or ORDC staff makes its final inspections of the devices and if it finds that the identified installations are completed and the warning devices have been put in service, staff should file a memorandum in this docket indicating that the installations are completed and the warning devices have been put in service.
- (9) With the intention of promoting increased public safety during the pendency of the projects, the Commission urges the appropriate local government agency to make an immediate assessment of interim physical improvements, which would enhance driver awareness at the crossings. The Commission may provide assistance in funding improvements such as rumble strips, illumination, signs, or other safety enhancements at the locations of the projects. Applications for such funding should be made to the Commission's Transportation Department, Rail Division, which shall review all proposals. In the event the department finds the improvements appropriate, the department director is hereby authorized to execute a contract with the local government agency, and obligate up to \$5,000 from the State Grade Crossing Safety Fund for such

improvements at each project location. However, the local government agency should not initiate any improvements until a contract has been executed.

It is, therefore,

ORDERED, That W&LE submit to the Commission and ORDC site plans and cost estimates for the projects by February 10, 2010. It is, further,

ORDERED, That, by February 17, 2010, W&LE file a letter in this docket advising that it has submitted site plans and cost estimates to the Commission and ORDC. It is, further,

ORDERED, That by March 12, 2010, W&LE file a notice that it has initiated with the applicable public utility the process to ensure that electric service will be available at the involved grade crossings as set forth in finding 7. It is, further,

ORDERED, That, following approval of site plans and cost estimates by ORDC, W&LE proceed with and complete the projects by May 11, 2011. It is, further,

ORDERED, That W&LE follow the detailed instructions as outlined in the ORDC letter of construction authorization. It is, further,

ORDERED, That W&LE notify staff at least five working days before the date work is scheduled to begin at the sites of the projects so that arrangements can be made for inspections. It is, further,

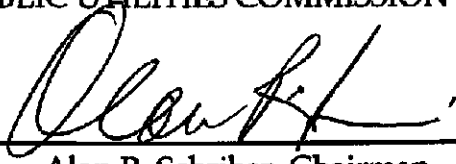
ORDERED, W&LE notify staff of any changes in the scope of work, cost overruns, materials, etc., which are not in the approved plans and estimates and secure approval before the work is performed. It is, further,

ORDERED, That W&LE notify the Commission and ORDC 30 days before the projected date of completion. It is, further,

ORDERED, That, at the time staff or ORDC makes its final inspections and if it finds that the installations at the grade crossings are completed and the warning devices have been put in service, staff will file a memorandum in this docket indicating that the installations are completed and the warning devices have been put in service. It is, further,

ORDERED, That copies of this entry be served upon the W&LE and its counsel, ORDC, Suffield Township Trustees, the mayor of Hartville, Ohio, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
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Alan R. Schriber, Chairman

  
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Paul A. Centolella

  
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Ronda Hartman Fergus

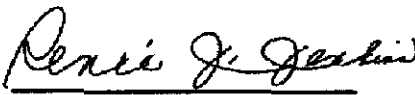
  
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Valerie A. Lemmie

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Cheryl L. Roberto

KKS/vrm

Entered in the Journal

**NOV 12 2009**

  
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Renee J. Jenkins  
Secretary