

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Request of CSX)
Transportation, Inc. to Install Active Grade)
Crossing Warning Devices in Butler) Case No. 10-204-RR-STP
County, Oxford Township at Taylor Rd.)
(DOT #154-092R) and Ringwood Rd. (DOT)
#154-089H).)

FINDING AND ORDER

The Commission finds:

- (1) Pursuant to Section 4905.04, Revised Code, the Commission has statutory authority to regulate and promote the welfare and safety of railroad employees and the traveling public.
- (2) Pursuant to Section 4907.471, Revised Code, the Commission is responsible for evaluating public grade crossings to determine the need for installing active warning devices and apportioning the cost thereof.
- (3) The Commission is responsible for the administration and implementation of the State Grade Crossing Protection Fund established to help defray a portion of the public's share of the cost of upgrading warning devices at Ohio's highway-railroad grade crossings.
- (4) Pursuant to Rule 4901-1-30, Ohio Administrative Code (O.A.C.), any two or more parties may enter into a written or oral stipulation concerning the issues presented in such proceeding.
- (5) On February 18, 2010, the Commission staff (staff) filed a subsidy stipulation (stipulation), which it had entered into with CSX Transportation, Inc. (CSX), the Ohio Rail Development Commission (ORDC), and Oxford Township, Butler County (also known as the local highway authority or LHA), pursuant to Rule 4901-1-30, O.A.C. The stipulation states that the parties desire to participate in the upgrade of active warning devices at the CSX grade crossing at Taylor Road (DOT #154-092R), and Ringwood Road (DOT #154-089H) in Oxford Township, Butler County. Pursuant to the stipulation, costs will be allocated for the crossings as follows: at Taylor Road (DOT #154-092R), CSX will pay 10 percent of 100

percent, plus maintenance, ORDC will pay 40 percent of total, and the Commission will pay 50 percent of total; at Ringwood Road (DOT #154-089H), CSX will pay 10 percent of 100 percent, plus maintenance, ORDC will pay 31 percent of total, and the Commission will pay 59 percent of total.

- (6) Staff has recommended that the Commission approve this stipulation and that CSX file site plans and cost estimates within 90 days of the Commission's approval. Staff also has recommended that CSX complete the project within one year after the Commission's approval.
- (7) Upon review of the stipulation filed by the parties, the Commission finds that the terms and conditions therein insure the timely protection of the public at the crossing and provide a reasonable basis for apportioning costs thereof. Therefore, the stipulation entered into among the parties should be approved and, accordingly, the cost of the project should be allocated as set forth therein.
- (8) CSX should submit to the staff by June 3, 2010, site plans and cost estimates for the projects. Within seven days thereafter, CSX should each file a letter in this docket advising that the site plans and cost estimates have been submitted to the Commission. Following submission and approval of the site plans and cost estimates, unless otherwise directed, CSX is hereby authorized to acquire project materials and to commence work as detailed in the letter of construction authorization. CSX shall notify staff at least five working days before the date work is scheduled to begin at the project sites so that arrangements can be made for inspections. In addition, CSX 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. CSX should complete these projects on or before March 3, 2011. The Commission will issue no further construction authorization in this matter.
- (9) Within 120 days of the issuance of this finding and order, CSX shall file notice in the docket that it has initiated discussions with Duke Energy Ohio, Inc. (Duke) regarding the grade crossing projects, 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 that CSX has taken with Duke and the LHA to have electric service available during the construction and cut-in phases of the project. CSX shall serve a copy of the docketed notice upon Duke. To ensure that the deadline is met, CSX shall timely inform the Commission, in writing, of any issues regarding the availability of electric service.

- (10) In order to expedite the activation of the warning devices, the Commission no longer requires railroad companies to delay such activation pending a final inspection by the staff. However, the railroad should notify the staff 30 days before the projected date of completion. At the time the staff makes its final inspection of the devices and finds that the installations are completed and have been put in service, the staff should file a memorandum in this docket indicating that the installations are completed and the warning devices have been put in service.
- (11) With the intention of promoting increased public safety during the pendency of these projects, the Commission urges the appropriate local government agencies to make an immediate assessment of interim physical improvements which would enhance driver awareness at the project crossing. The Commission may provide assistance in funding improvements such as rumble strips, illumination, signs, or other safety enhancements at the project location. Applications for such funding should be made to the Commission's Transportation Department, Railroad 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. However, the local government agency should not initiate any improvements until a contract has been executed.

It is, therefore,

ORDERED, That the stipulation is adopted and approved. It is, further,

ORDERED, That, by June 3, 2010, CSX submit to ORDC and the Commission's Railroad Division site plans and cost estimates for this project. It is, further,

ORDERED, That, by June 10, 2010, CSX file a letter in this docket advising that it has submitted plans and cost estimates to the Commission. It is, further,

ORDERED, That CSX shall notify staff at least five working days before the date work is scheduled to begin at the project site so that arrangements can be made for inspections. It is, further,

ORDERED, That CSX 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. It is, further,

ORDERED, That by July 1, 2010, CSX shall file notice that it has initiated with Duke the process to ensure that electric service will be available at the involved grade crossings as set forth in finding (9). It is, further,

ORDERED, That, following approval of the site plans and cost estimates, CSX proceed with and complete the projects on or before March 3, 2011. It is, further,

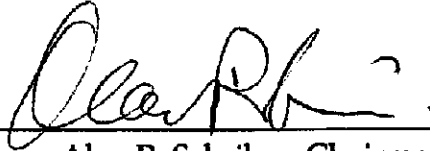
ORDERED, That CSX follow the detailed instructions as outlined in the letter of construction authorization. It is, further,

ORDERED, That CSX notify the Commission 30 days before the projected date of completion. It is, further,

ORDERED, That, at the time the staff makes its final inspection and finds that the installation is 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 a copy of this finding and order be served upon CSX and its counsel, ORDC, Oxford Township in Butler County, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



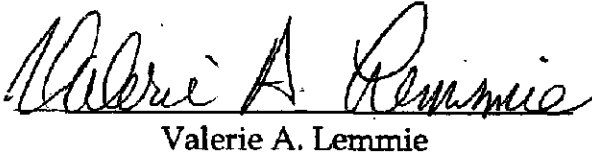
Alan R. Schriber, Chairman



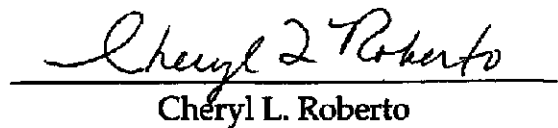
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Entered in the Journal

MAR 03 2010



Renee J. Jenkins
Secretary