

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Authorization of the)
Wheeling and Lake Erie Railway to Install) Case No. 12-2142-RR-FED
Active Grade Crossing Warning Devices in)
Wayne County.)

FINDING AND ORDER

The Commission finds:

- (1) On July 23, 2012, the Commission's Staff (Staff) filed a memorandum stating that the Ohio Rail Development Commission (ORDC) had authorized funding for the Wheeling & Lake Erie Railway (W&LE) to install mast mounted flashing lights and roadway gates at the grade crossing located at Eby Rd/CR 73 (473203K), and the adjacent crossing at Fox Lake Rd/TR 221 (473202D) in Greene Township, Wayne County. Staff recommended that the Commission establish a completion deadline of nine months for W&LE to complete the projects.
- (2) Upon review, W&LE is hereby authorized to acquire project materials and to commence construction as detailed in the letter of construction authorization. It is expected that all work necessary for Federal Highway Administration acceptance of the warning devices will be completed by the in-service due date and that the railroad will be responsible for this work. Such work includes any ancillary work to make the warning devices function as designed and visible to the roadway user and in compliance with the Manual of Uniform Traffic Control Devices, including minor roadway work if necessary. W&LE shall notify Staff at least five working days before the date work is scheduled to begin at the projects so that arrangements can be made for any inspections. In addition, W&LE shall timely 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.

- (3) Within 30 days of the issuance of this finding and order, W&LE shall file a notice that it has initiated discussions with American Electric Power (AEP), or any other applicable 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 AEP, any other electric utility, and the 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 AEP or any other applicable 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.
- (4) The Commission will issue no further construction authorization. Further, the grade crossing improvement projects should be completed by May 1, 2013.
- (5) 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 inspection of the devices and 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 that the warning devices have been put in service.
- (6) 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 for 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 the project locations. However, the local government agency should not initiate any improvements until a contract has been executed.

It is, therefore,

ORDERED, That, by September 1, 2012, W&LE file a notice that it has initiated with AEP, or any applicable utility, the process to ensure that electric service will be available at the involved grade crossings as set forth in finding 3. It is, further,

ORDERED, That W&LE follow the detailed instructions as outlined in the ORDC letter of construction authorization and proceed with and complete the projects by May 1, 2013. It is, further,

ORDERED, That W&LE 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 any inspections. It is, further,

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

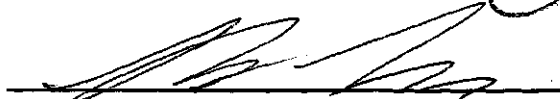
ORDERED, That W&LE notify the Commission and ORDC 30 days before the projected date of completion. It is, further,

ORDERED, That, at the time Staff or ORDC makes its final inspection and 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,

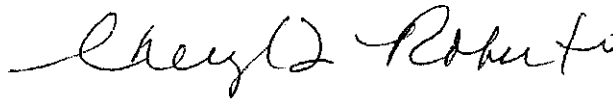
ORDERED, That copies of this finding and order be served upon W&LE, ORDC, Wayne County Engineer's Office, Greene Township Trustees, AEP, and any other interested person of record.

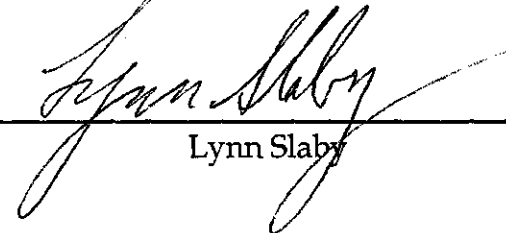
THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


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Entered in the Journal
AUG 01 2012



Barcy F. McNeal
Secretary