

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Authorization of the)
CSX Transportation and Norfolk)
Southern Railway to Install Active) Case No. 13-1229-RR-FED
Grade Crossing Warning Devices in)
Darke and Crawford Counties.)

FINDING AND ORDER

The Commission finds:

- (1) On May 21, 2013, Commission Staff (Staff) filed a memorandum stating that the Ohio Rail Development Commission (ORDC) had authorized funding for CSX Transportation (CSX) to install mast-mounted flashing lights and roadway gates at the Younker Road/Township Road 160 grade crossing (538-800B), located in Darke County. Staff also noted that ORDC had authorized funding for Norfolk Southern Railway (NS) to install mast-mounted flashing lights and roadway gates at the Malcolm Road/Township Road 96 grade crossing (481-553X), located in Crawford County. Staff recommended that the Commission establish a completion deadline of nine months for CSX and NS to complete the projects.
- (2) Upon review, CSX and NS are hereby authorized to acquire project materials and to commence construction as detailed in the letters 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. CSX and NS 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 inspection. In addition, CSX and NS shall timely notify Staff of any changes in the scope of work, cost overruns, materials, etc., which are

not in the approved plan in order to estimate and secure approval before the work is performed.

- (3) Within 30 days of the issuance of this finding and order, CSX and NS shall each file a notice that they have initiated discussions with The Dayton Power and Light Company (DP&L), Ohio Edison Company (OE), 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 filings shall identify the steps CSX and NS have taken with DP&L, OE, or any other electric utility, and the local highway authority to have electric service available during the construction and cut-in phases of the projects. CSX and NS shall each serve a copy of the notice upon DP&L, OE, or any other applicable utility. To ensure that the deadline is met, CSX and NS 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 March 5, 2014.
- (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, CSX and NS should notify Staff and ORDC 30 days before the projected date of completion. At the time Staff or ORDC 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 July 5, 2013, CSX and NS each file a notice that they have initiated with DP&L, OE, 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 CSX and NS follow the detailed instructions as outlined in the ORDC letter of construction authorization and proceed with and complete the projects by March 5, 2014. It is, further,

ORDERED, That CSX and NS 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 inspection. It is, further,

ORDERED, That CSX and NS 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,

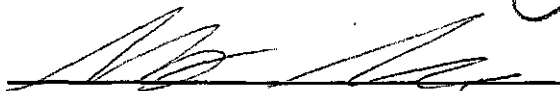
ORDERED, That CSX and NS notify the Commission and ORDC 30 days before the projected date of completion. It is, further,

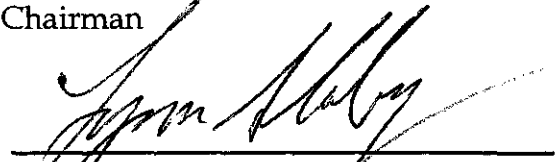
ORDERED, That, at the time Staff or ORDC makes its final inspection and finds that the installations are completed and the warning devices have been put in service, Staff will file a memorandum in this docket indicating that the installations are completed and the warning devices have been put in service.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

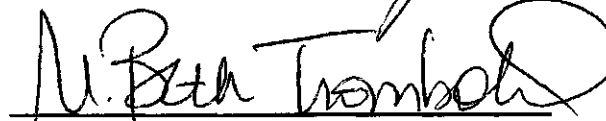
ORDERED, That copies of this finding and order be served upon CSX, NS, ORDC, DP&L, OE, Richland Township Trustees, Dallas Township Trustees, and any other interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman

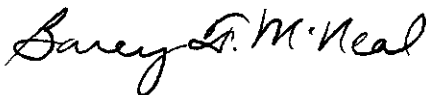

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JUN 05 2013



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Secretary