

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Authorization of )  
Norfolk Southern Railway CJ Corridor ) Case No. 13-2138-RR-FED  
Improvement Through Greene and Clark )  
Counties. )

FINDING AND ORDER

The Commission finds:

- (1) On October 29, 2013, Commission Staff (Staff) filed a memorandum stating that Norfolk Southern Railway (NS), the Ohio Rail Development Commission (ORDC), and the Commission had entered into a subsidy agreement, dated October 13, 2005, and subsequent renewals, in order to govern the improvement of various at-grade rail crossings on NS's CJ Line. The projects will be paid for with federal funds and are at actual cost. The memorandum adds that ORDC has now authorized funding for the installation of flashing lights and roadway gates at the following locations:

Greene County:

City of Fairborn, Spangler Rd./Township Road (TR) 114,  
DOT# 532527C

City of Fairborn, Xenia Dr./State Route (SR) 235, DOT#  
523529R

City of Fairborn, S. Central Ave., DOT# 527809G

Bath Township (Twp.), Black Lane/TR 12, DOT# 523526V

Clark County:

Enon Rd./County Road (CR) 315, DOT# 523519K

Mad River Twp., Snider Rd./TR 151, DOT# 523522T

Haddix Rd./CR 331, DOT# 523524G

Mad River Twp., Old Mill Rd./TR 95, DOT# 523515H

Mad River Twp., Tecumseh Rd./TR 198, DOT# 262208L

Staff recommends that because the plans and estimates for the projects have been submitted and approved, the Commission establish a completion deadline of 15 months for NS to complete the project.

- (2) Upon review, NS 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 (FHWA) 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 (MUTCD), including minor roadway work if necessary. 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, 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, NS shall file a notice that they have initiated discussions with American Electric Power (AEP), Dayton Power and Light Company (DPL), 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 NS has taken with AEP, DPL, any other electric utility, and the local highway

authority to have electric service available during the construction and cut-in phases of the project. NS shall serve a copy of the notice upon AEP, DPL, or any other applicable utility. To ensure that the deadline is met, 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 February 13, 2015.
- (5) It is expected that all work necessary for FHWA acceptance of the warning devices will be completed by the in-service due date and that the railroad will be responsible for this work. This work includes, but is not limited to, any ancillary work to make the warning devices function as designed and visible to the roadway user, and MUTCD compliance, including minor roadway work if necessary.
- (6) 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, 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.
- (7) With the intention of promoting increased public safety during the pendency of the project, 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 project. 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 December 13, 2013, NS file a notice that they have initiated with AEP, DPL 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 NS follow the detailed instructions as outlined in the ORDC letter of construction authorization and proceed with and complete the project by February 13, 2015. It is, further,

ORDERED, That 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 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,

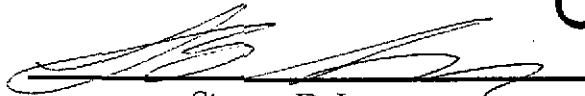
ORDERED, That NS notify the Commission and ORDC 30 days before the projected date of completion. It is, further,

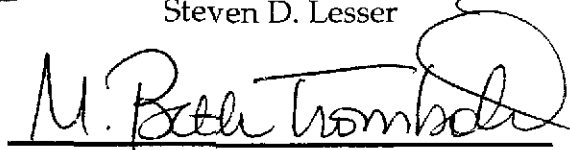
ORDERED, That, at the time Staff or ORDC makes its final inspection and finds that the installations at the grade crossings are completed and the warning devices have been put in service, Staff will file a memorandum in this docket indicating that the installations are completed and the warning devices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

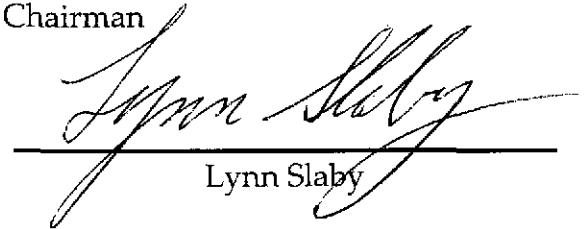
ORDERED, That copies of this finding and order be served upon NS, ORDC, Clark County Engineer, City Manager of Fairborn, Mad River Township Trustees, Bath Township Trustees, AEP, DPL, and any other interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman

  
Steven D. Lesser

  
M. Beth Trombold

  
Lynn Slaby

  
Asim Z. Haque

JML/sc

Entered in the Journal

**NOV 13 2013**



Barcy F. McNeal  
Secretary