

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of a Request of Indiana)
Eastern Railroad, LLC dba Ohio South)
Central Railroad for a Downgrade of) Case No. 14-2035-RR-RCP
Warning Devices at State Route 93,)
Near Oak Hill, Ohio.)

ENTRY

The Commission finds:

- (1) On November 13, 2014, as amended on November 24, 2014, Indiana Eastern Railroad, LLC dba Ohio South Central Railroad (OSCR) filed a request to temporarily downgrade the warning devices from electric flashers to crossbucks at State Route 93 (SR 93) (DOT 151-479K), approximately 25 miles south of Oak Hill, Ohio. OSCR explained that the tracks at that location are out of service until new customers can be found and the line can be rehabilitated. OSCR added that when the new customers are found and the track is rehabilitated, new lights and gates will be installed with the approval of the Commission, as well as the Ohio Rail Development Commission (ORDC), which is taking ownership of the line.
- (2) By Entries issued on November 19, 2014, and January 6, 2015, Staff was directed to file an investigative report on the request by December 22, 2014, and Oak Hill, Ohio Department of Transportation District 9 (ODOT 9), Ohio Rail Development Commission (ORDC), and any other interested parties were directed to file comments on the downgrade request by January 16, 2015. No comments were filed.
- (3) Staff filed its report of investigation on January 2, 2014. Staff indicated that the crossing is currently exempt pursuant to Case No. 11-5675-RR-RCP, the track is out of service at this location, and no trains operate on this line.

Staff also noted that, until significant work is done on the rail, active grade crossing warning devices such as flashing lights will not work as intended, as the rail cannot conduct the electric current required for the devices to work. Staff recommended that the downgrade request be granted.

- (4) On January 21, 2015, Staff filed a supplemental memorandum. Staff indicated that the rails that crossed SR 93 at-grade, as well as the mast-mounted flashing lights, had been removed by ODOT 9, which acted as a contractor for OSCR. Staff also added that the crossbucks that are currently in place were installed by OSCR, and that OSCR placed a derail on the main line just south of Jackson, Ohio, to prevent rail movement from Jackson to Oak Hill.
- (5) Upon review, we find that OSCR's request to downgrade should be approved. Nevertheless, we would be remiss if we did not counsel ODOT and OSCR that R.C. 4907.473 and R.C. 4907.49 provide that no person shall remove any sign, signal, gate, protective device, or other safety equipment without Commission approval. Because the Commission had not approved OSCR's request, ODOT and OSCR had no authority to remove or install rail or grade crossing safety equipment from the aforementioned crossing prior to the approval by the Commission. Accordingly, OSCR and ODOT are cautioned that, in the future, actions such as the removal of grade crossing warning devices and track shall not be taken prior to Commission approval.

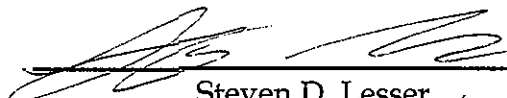
It is, therefore,

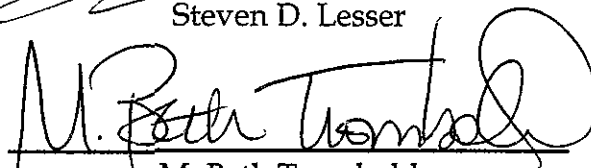
ORDERED, That OSCR's request to downgrade is approved. It is, further,

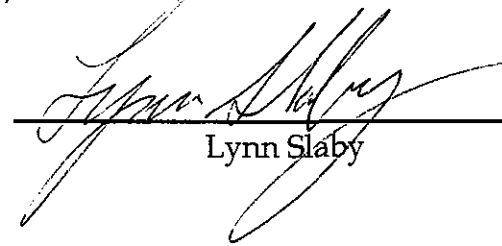
ORDERED, That a copy of this Entry be served on OSCR, Oak Hill., ODOT 9, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman


Steven D. Lesser


M. Beth Trombold

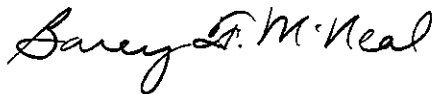

Lynn Slaby


Asim Z. Haque

JML/sc

Entered in the Journal

FEB 11 2015


Barcy F. McNeal

Barcy F. McNeal
Secretary