

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Authorization of)
CSX Transportation, Inc. to Install)
Active Grade Crossing Warning Devices) Case No. 14-2311-RR-FED
in the Village of Prospect, Marion)
County.)

FINDING AND ORDER

The Commission finds:

- (1) R.C. 4905.04 provides that the Commission has statutory authority to regulate and promote the welfare and safety of railroad employees and the traveling public.
- (2) R.C. 4907.471 provides that the Commission shall survey all at grade crossings and establish a priority list to determine which grade crossings are in need of additional protective devices.
- (3) R.C. 4907.476 provides that, where the Ohio Department of Transportation enters into contracts and agreements for grade crossing protective device projects, the Commission shall work with and through the department.
- (4) On December 23, 2014, Staff filed a memorandum stating that the Ohio Rail Development Commission (ORDC) has authorized funding for CSX Transportation, Inc. (CSX) to install mast-mounted flashing lights and roadway gates at Marion County, village of Prospect, E. Water Street/State Route 47, DOT#228-704T, approved cost \$190,298.00. Staff notes that the crossing was surveyed on November 4, 2013 because its hazard ranking was found to warrant the upgrade.

In addition, observes Staff, there is a separate industrial track approximately 36 feet east of the E. Water Street/State Route 47 crossing. The industrial track is owned and operated by Prospect Farmers Exchange (PFE), and is used only seasonally at a maximum two times per week. PFE stops and flags both crossings only

when the industrial track is in use. Staff requests that the Commission order PFE to continue with the stop and flag, thus, preventing traffic from stopping on the CSX mainline and obviating the need for warning device maintenance on the industrial spur.

Staff adds that the project will be paid for with federal funds and is actual cost. Staff requests that the Commission issue an order directing completion within nine months.

- (5) PFE filed a letter on February 9, 2015, providing additional details on its use of the industrial track. PFE explains that a four-wheel drive tractor is coupled to rail cars and moves the rail cars at two to three miles per hour. At most, three rail cars are moved simultaneously, preventing vehicles from traveling over the crossing for one minute. Traffic west of the CSX tracks and east of the spur is halted by a flagman until the spur is clear of rail cars.
- (6) Upon review, CSX is hereby authorized to acquire project materials and to commence construction 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 so that arrangements can be made for any inspection. In addition, CSX shall timely notify Staff of any changes in the scope of work, cost overruns, materials, etc., which are not in the approved plans in order to estimate and secure approval before the work is performed.
- (7) Within 30 days of the issuance of this Finding and Order, CSX shall file notice that it has initiated discussions with Prospect Municipal Electric (Prospect Municipal) 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 CSX has taken with Prospect Municipal, or any other electric utility, and the local highway authority to have electric service available during the construction and

cut-in phases of the project. CSX shall serve a copy of the notice upon Prospect Municipal, or any other applicable utility. To ensure that the deadline is met, Prospect Municipal or any other applicable utility shall timely inform the Commission in writing of any issues regarding the availability of electric service.

- (8) The Commission will issue no further construction authorization. The grade crossing improvement project should be completed by December 11, 2015. In addition, the Commission finds reasonable Staff's recommendation that PFE continue to stop and flag the crossing when in use after completion of the project.
- (9) 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. 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 make sure they are in compliance with the Manual of Uniform Traffic Control Devices, including minor roadway work if necessary.
- (10) 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 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 installation is complete and the warning devices have been put in service, Staff should file a memorandum in this docket indicating that the installation is complete and that the warning devices have been put in service.
- (11) 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 crossing. 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 any proposal. 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 location. However, the local government agency should not initiate any improvements until a contract has been executed.

It is, therefore,

ORDERED, That, by April 10, 2015, CSX file notice that it has initiated with Prospect Municipal, or any applicable utility, the process to ensure that electric service will be available at the involved grade crossing as set forth in finding (7). It is, further,

ORDERED, That CSX follow the detailed instructions as outlined in the ORDC letter of construction authorization and proceed with and complete the project by December 11, 2015. It is, further,

ORDERED, That CSX 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 any inspection. It is, further,

ORDERED, That CSX 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,

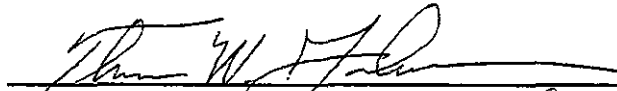
ORDERED, That CSX notify the Commission and ORDC 30 days before the projected date of completion. It is, further,


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

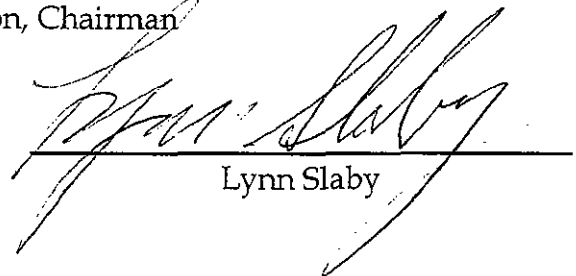
ORDERED, That PFE continue to stop and flag at the CSX tracks and the industrial track when the industrial track is in use. It is, further,

ORDERED, That copies of this Finding and Order be served upon ORDC, CSX, PFE, village clerk of Prospect, Prospect Municipal, and any other interested person of record.


THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman


Steven D. Lesser


Lynn Slaby



M. Beth Trombold


Asim Z. Haque

JML/sc

Entered in the Journal

MAR 11 2015


Barcy F. McNeal

Barcy F. McNeal
Secretary