

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE AUTHORIZATION OF  
THE CHICAGO, FT. WAYNE & EASTERN  
RAILROAD TO INSTALL ACTIVE WARNING  
DEVICES IN HARDIN AND ALLEN COUNTIES.

CASE NO. 16-1560-RR-FED

### FINDING AND ORDER

Entered in the Journal on August 17, 2016

#### I. SUMMARY

{¶ 1} The Commission approves the use of federal funds for the Chicago, Ft. Wayne & Eastern Railroad to install mast-mounted flashing lights and roadway gates at three crossings in Hardin County and one crossing in Allen County by May 17, 2017, subject to the Commission's ongoing jurisdiction and oversight.

#### II. DISCUSSION

##### A. *Applicable Law*

{¶ 2} 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.

{¶ 3} R.C. 4907.471 provides that the Commission shall survey all grade crossings and establish a priority list to determine which grade crossings are in need of additional protective devices.

{¶ 4} R.C. 4907.476 provides that where the Ohio Department of Transportation (ODOT) enters into contracts and agreements for grade crossing protective device projects, the Commission shall work with and through the department. Federal funding for such projects is provided through the Ohio Rail Development Commission (ORDC), which is an independent agency of the state within ODOT, established in accordance with R.C. 4981.02.

{¶ 5} Chicago, Ft. Wayne & Eastern Railroad (CFE) is a railroad as defined in R.C. 4907.02 and subject to the jurisdiction of the Commission under R.C. 4905.04.

***B. Procedural Background and Other Details***

{¶ 6} On July 12, 2016, Staff filed a memorandum stating that the ORDC has authorized funding for CFE to install mast-mounted flashing lights and roadway gates at three crossings in Hardin County and one crossing in Allen County. The approved actual cost, to be paid fully by federal funds, is as follows:

DOT#	County	Community	Street	Cost
532646K	Hardin	near the village of Forest	County Road 215	\$164,050.00
532652N	Hardin	Forest	Campbell Street	\$166,461.40
532651G	Hardin	Forest	S. Martin Street/ State Route 37	\$176,130.00
532733N	Allen	near the village of Elida	Grubb Road/ County Road 77	\$186,516.00

Staff notes that the Hardin County crossings were surveyed on December 1, 2015, because of constituent complaints, and were found to warrant the upgrades. The Allen County crossing was surveyed on September 28, 2015, because of its hazard ranking, and was found to warrant the upgrade. Staff requests that the projects be completed in nine months.

{¶ 7} Upon review, CFE is hereby authorized to acquire project materials and to commence construction as detailed in the letter of construction authorization. CFE 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, CFE 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.

{¶ 8} Within 30 days of the issuance of this Finding and Order, CFE shall file 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 CFE has taken with AEP 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. CFE shall serve a copy of the notice upon AEP or any other applicable utility. To ensure that the deadline is met, AEP or any other applicable utility shall timely inform the Commission in writing of any issues regarding the availability of electric service.

{¶ 9} The Commission will issue no further construction authorization. Further, the grade crossing improvement projects should be completed by May 17, 2017.

{¶ 10} 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 CFE 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 Manual of Uniform Traffic Control Devices compliance, including minor roadway work if necessary.

{¶ 11} In order to expedite the activation of the warning devices, the Commission no longer requires a delay in activation pending final inspection by Staff. However, CFE 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 complete and the warning devices have been put in service, Staff should file a memorandum in this docket indicating that the installations are complete and that the warning devices have been put in service.

{¶ 12} 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 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 locations. However, the local government agency should not initiate any improvements until a contract has been executed.

### III. ORDER

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That by September 16, 2016, CFE file 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 Paragraph 8. It is, further,

{¶ 15} ORDERED, That CFE follow the detailed instructions as outlined in the ORDC letter of construction authorization and proceed with and complete the projects by May 17, 2017. It is, further,

{¶ 16} ORDERED, That CFE 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,


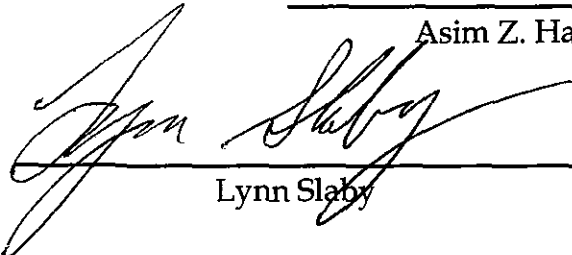
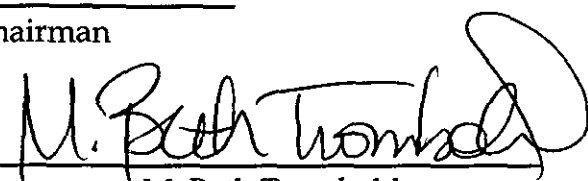

{¶ 17} ORDERED, That CFE timely notify Staff of any changes in the scope of work, cost overruns, materials, etc., which are not in the approved plans and estimates, and shall secure approval before the work is performed. It is, further,

{¶ 18} ORDERED, That CFE notify the Commission and ORDC 30 days before the projected date of completion. It is, further,

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

{¶ 20} ORDERED, That a copy of this Finding and Order be served upon ORDC, Genessee & Wyoming/IORY, Allen County Engineer, Mayor of Forest, and any other interested person of record.

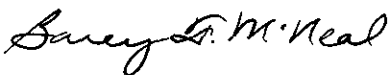
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
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AUG 17 2016

  
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Barcy F. McNeal

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Secretary