

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE AUTHORIZATION
OF THE OHIO CENTRAL RAILROAD AND
CSX TRANSPORTATION TO INSTALL
ACTIVE GRADE CROSSING WARNING
DEVICES IN TUSCARAWAS AND WOOD
COUNTIES.

CASE NO. 16-1791-RR-FED

FINDING AND ORDER

Entered in the Journal on September 29, 2016

I. SUMMARY

{¶ 1} The Commission authorizes the Ohio Central Railroad and CSX Transportation to install mast-mounted flashing lights and roadway gates at grade crossings in Tuscarawas and Wood Counties, 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} Ohio Central Railroad (OHCR) and CSX Transportation (CSX) are railroads 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 August 25, 2016, Staff filed a memorandum indicating that the Ohio Rail Development Commission (ORDC) has authorized funding for OHCR and CSX to install mast-mounted flashing lights and roadway gates at the following locations:

OHCR, Tuscarawas County, Buck Township, near Baltic, Schrock Road/Township Road 656 (DOT#474241X)

CSX, Wood County, Washington Township, near Tontogany, Green Road/Township Road 96 (DOT#155802E)

CSX, Wood County, near Portage, County Road 28 (DOT#513660E)

The approved actual costs, to be paid fully with federal funds, are as follows:

| Railroad/County/Township or Community | Federal Funds |
|---|---------------|
| OHCR: Tuscarawas County, Buck Township, near Baltic | \$177,189 |
| CSX: Wood County, Washington Township, near Tontogany | \$300,673 |
| CSX: Wood County, near Portage | \$254,015 |

Staff requests that the Commission issue an order directing completion within nine months. Staff notes that the OHCR crossing was surveyed on March 2, 2015,

because of a constituent complaint, while the CSX crossings were surveyed on September 29, 2015, because of hazard rank.

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

{¶ 8} Within 30 days of the issuance of this Finding and Order, OHCR and CSX shall file notice that they have initiated discussions with AEP Ohio (AEP), Toledo Edison Company (TEC), and 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 OHCR and CSX have taken with AEP, TEC, any other electric utility, and the local highway authority to have electric service available during the construction and cut-in phases of the projects. OHCR and CSX shall serve a copy of the notice upon AEP, TEC, and any other applicable utility. To ensure that the deadline is met, AEP, TEC, and 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 June 28, 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 OHCR and CSX 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, OHCR and 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 installations and modifications are complete and the warning devices have been put in service, Staff should file a memorandum in this docket indicating that the installations and modifications are complete and that the warning devices have been put in service. The memorandum should also include Staff's findings that the surface improvements are complete and the traffic signal preemption is in operation.

{¶ 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 October 28, 2016, OHCR and CSX file notice that they have initiated with AEP, TEC, 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 OHCR and CSX follow the detailed instructions as outlined in the ORDC letter of construction authorization and proceed with and complete the project by June 28, 2017. It is, further,

{¶ 16} ORDERED, That OHCR and CSX 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 OHCR and 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,

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


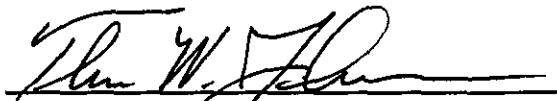
{¶ 19} ORDERED, That, at the time Staff or ORDC makes its final inspection and finds that the installations and modifications at the grade crossings are complete and the warning devices have been put in service, Staff will file a memorandum in this docket indicating that the installations and modifications 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, OHCR, CSX, Wood County Engineer, Washington Township Trustees, Bucks Township Trustees, AEP, TEC, and any other interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

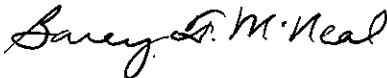


Asim Z. Haque, Chairman


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JML/sc

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SEP 29 2016Barcy F. McNeal
Secretary