

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REQUEST
BY NORFOLK SOUTHERN RAILWAY
COMPANY TO RELOCATE AND/OR
MODIFY CERTAIN GRADE CROSSING
WARNING DEVICES IN CANTON, STARK
COUNTY.

CASE NO. 16-1592-RR-RCP

FINDING AND ORDER

Entered in the Journal on October 4, 2017

I. SUMMARY

{¶ 1} Subject to Staff's recommendations, the Commission approves the revised request of Norfolk Southern Railway Company to relocate and/or modify grade crossing warning devices on its Fort Wayne line in Canton, and remove warning devices at one-way streets.

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. 4907.52 provides that when a railroad and street or highway cross at grade, if, in the opinion of the Commission, public safety requires protection, the Commission may make an order requiring the railroad to install such devices as, in the opinion of the Commission, will properly protect such crossing.

{¶ 4} Norfolk Southern Railway Company (NS) 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*

{¶ 5} On July 19, 2016, NS filed a request for Commission authorization to remove running track, as well as relocate and/or modify warning devices, at grade crossings on its Fort Wayne line in Canton.¹ NS explains that it operates double mainline tracks through Canton, with the running track just north of the mainline tracks. To implement federal requirements relating to Positive Train Control (PTC),² NS's proposal includes removal of running track at the following grade crossings: 8th Street NE (DOT#502730L), Rowland Avenue NE (DOT#502725P), 3rd Street NE (DOT#502724H), Tuscarawas Street (DOT#502751E), Market Street S (DOT#502721M), High Avenue SW (DOT#502719L), Prospect Road SW (DOT#502714C), Dueber Road SW (DOT#502713V), Clarendon Avenue SW (DOT#502711G), Maryland Avenue SW (DOT#502710A), Raff Road SW (DOT#502709F), 6th Street NE (DOT#502729S), Cleveland Avenue SW (DOT#502717X), McKinley Avenue SW (DOT#502718E), Madison Street SE/3rd Street SE (DOT#502723B), 5th Street NE (DOT#502727D), and 2nd Street NE (DOT#502752L). In addition, NS seeks Commission approval to relocate the warning devices at each of the preceding crossings by moving the devices closer to the mainline tracks, thereby ensuring compliance with the Manual of Uniform Traffic Control Devices (MUTCD).

{¶ 6} NS also seeks Commission approval to modify the warning devices at the following grade crossings: 8th Street NE (DOT#502730L), removal of one-way sidelights; 6th Street NE (DOT#502729S) and 2nd Street NE (DOT#502752L), removal of cantilever/flashing lights on the eastbound approach; 5th Street NE (DOT#502727D) and Madison Street SE/3rd Street SE (DOT#502723B), removal of cantilever/flashing lights on the westbound approach; Cleveland Avenue SW (DOT#502717X), removal of

¹ A running track may be of assigned direction or no assigned direction and is under control of a railroad employee such as a train dispatcher or yardmaster. There is usually no signal system involved, and train movement is made at restricted or reduced speed.

² PTC uses communications-based/processor-based train control technology that provides a system capable of preventing train-to-train collisions, overspeed derailments, incursions into railroad work zones, and the movement of a train through a main line switch into the wrong position.

mast-mounted flashing lights on the southbound approach, and removal of the “no right turn” signal and flashing beacon in the southwest quadrant servicing Buckeye Avenue; and McKinley Avenue SW (DOT#502718E), removal of mast-mounted flashing lights on the opposing side of the southbound approach, and removal of cantilever/ flashing lights on the southbound approach, with installation of side standard 12-inch lights on the gate masts.

{¶ 7} Finally, NS proposes a project completion deadline of 18 months from the date of the Commission order. NS adds that it will use internal funds for the project and will provide flaggers at its expense during the time each street is impacted.

{¶ 8} On October 13, 2016, the attorney examiner issued an Entry directing that, by November 10, 2016, interested parties file comments and Staff file a report of investigation regarding NS’s request. The attorney examiner noted in the Entry that the Commission has no authority over the removal of railroad tracks.

{¶ 9} On November 9, 2016, NS filed a letter requesting additional time to address engineering concerns identified during a November 7, 2016 field review with Staff. Staff filed a memo on November 10, 2016, supporting NS’s request, while also indicating that Staff needed an additional 90 days to file its report.

{¶ 10} In a December 21, 2016 Entry, the attorney examiner extended to February 10, 2017, the deadline for interested parties to file comments and Staff to file its report. Subsequently, on March 13, 2017, Staff filed a memo indicating that it had an upcoming meeting with NS, and requested 60 more days to file its report.

{¶ 11} The city of Canton (Canton) filed its comments on May 22, 2017. First, regarding NS’s proposed closure of the 8th Street NE crossing (DOT#502730L), Canton states that property in the vicinity of the crossing “is to be converted back to natural area that may include reforestation of flood plains, passive recreation, agriculture, and bike

trails.”³ Canton adds that the city prefers an at-grade bike trail crossing “somewhere in the area of 8th Street. The exact location is not yet determined and is flexible.” Second, Canton requests that NS not remove the running track, as the city is working to have the Cuyahoga Valley Scenic Railroad (CVSR) operate on this track. Canton explains that Akron Metro Regional Transit Authority (AMRTA) owns track used by CVSR that, at one time, was connected to NS’s running track. Canton states that its long term goal is to restore the connection of AMRTA’s track to the running track, so that CVSR’s service can include downtown Canton and an adjacent residential development. Finally, Canton seeks a quiet zone designation to benefit residences near the Market Street S (DOT#502721M) crossing.

{¶ 12} NS filed reply comments and revised plans on May 26, 2017. NS states that it will discuss the possibility of a quiet zone, but emphasizes that such discussions are separate from its request before the Commission. Regarding Canton’s proposal to use the running track for passenger transport, NS asserts that such an idea “is not viable from an operations standpoint, and is certainly not viable from a timing standpoint,” because the PTC mandate is “fast-approaching.”

{¶ 13} NS’s revised plans differ from its initial proposal only at the following crossings: Cleveland Avenue SW (DOT#502717X), an additional gate is added at the south side of the crossing; McKinley Avenue SW (DOT#502718E), existing cantilevers are retained on the north side of the crossing, and the flasher is removed in the southeast quadrant; 5th Street NE (DOT#502727D), an additional gate is added on the north side of the crossing; 8th Street NE (DOT#502730L), mast-mounted lights and gates are installed in the northwest quadrant, running track is removed, and warning devices relocated closer to mainline tracks; and Tuscarawas Street (DOT#502752L), warning devices are to

³ It its report filed June 22, 2017 (discussed in Paragraph 14), Staff explains that proposed closure of the 8th Street crossing was not in NS’s original or revised plans. According to Staff, after an on-site review November 7, 2016, NS approached Canton about the possibility of closure.

be placed 12 feet from the centerline of the tracks. NS requests Commission approval to proceed in accordance with its revised plans.

{¶ 14} Staff filed its report on June 22, 2017, with supplemental comments filed on August 23, 2017. Staff explains that Canton is agreeable to closing the 8th Street crossing (DOT#502730L); further, Staff states that closure could be part of a consolidation project eligible for state funding, with upgrades to LED lights at nearby crossings. However, Staff adds, Canton's interest in an at-grade bike trail crossing nullifies any possibility of closure, because bicycles could still cross the tracks at 8th Street. Therefore, Staff concludes, possible closure is a matter for NS and Canton to resolve. Concerning proposed removal of the running track, Staff notes that the track is unused; if the track were to remain in place, NS would incur unnecessary expense, as it would have to comply with the December 31, 2018 deadline for installation of PTC. Finally, Staff notes that Canton's proposal for a quiet zone must be addressed with the Federal Railroad Administration (FRA).

{¶ 15} With the exception of NS's proposal for three crossings, Staff recommends approving NS's revised plans. Specifically, Staff recommends that, presently, NS not make any changes at Raff Road SW (DOT#502709F), because that crossing is scheduled for a traffic preemption project with the Ohio Rail Development Commission that includes installation of new warning devices. At Dueber Road SW (DOT#502713V), in addition to approving NS's proposal, Staff recommends an extra set of sidelights for the driveway in the northeast quadrant of the crossing. At Madison Street SE/3rd Street SE (DOT#502723B), in addition to approving NS's request, Staff recommends installation of backlights on the 3rd Street SE cantilever at the west side of the crossing, and that the warning devices not be moved closer to the tracks because of unusual configuration of the crossings.

{¶ 16} In addition, Staff recommends that the Commission order NS to provide Staff with notice once work begins, and order Staff to conduct follow-up inspections to

verify that the modifications have been made as approved. Finally, Staff asserts, if NS retains the running track at some of the crossings, NS needs to ensure that warning devices are located in compliance with MUTCD standards.

{¶ 17} The Commission finds NS's revised request, as modified by Staff and discussed in Paragraph 15 above, to be reasonable and in conformance with statutory requirements. In so doing, we note that the Commission's jurisdiction in this case extends only to NS's relocation and modification of warning devices, in conformance with the MUTCD. While we understand Canton's reasons against removing the running track, removal of track is a matter under jurisdiction of the Surface Transportation Board (STB). Our jurisdiction also does not include establishing a quiet zone, which is a matter for Canton to address with the FRA. Finally, although Canton does not indicate opposition to NS's proposed closure of the 8th Street NE crossing (DOT#502730L), the city's preference for a bike trail crossing in the same vicinity nullifies the possibility of closure, as bicycles could still cross the track at 8th Street. Therefore, possible closure of the crossing and Canton's preference for a nearby bike trail crossing are matters for NS and Canton to resolve.

III. ORDER

{¶ 18} It is, therefore,

{¶ 19} ORDERED, That NS's revised request, as modified by Staff in Paragraph 15, be approved. It is, further,

{¶ 20} ORDERED, That NS provide notice to Staff when it begins work on the project, and that NS provide flaggers at its expense at any crossing where such work has begun. It is, further,


{¶ 21} ORDERED, That upon receiving notice that work has begun, Staff monitors changes at the crossings and conducts follow-up inspections to confirm that the modifications have been made as approved. It is, further,

{¶ 22} ORDERED, That if NS retains the running track at any of the crossings, NS ensures that the warning devices are located in conformance with MUTCD standards. It is, further,

{¶ 23} ORDERED, That NS completes the project by April 4, 2019. It is, further,

{¶ 24} ORDERED, That a copy of this Finding and Order be served upon NS, mayor of Canton, city engineer of Canton, and any other interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



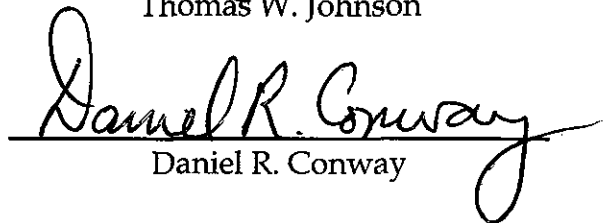
Asim Z. Haque, Chairman

M. Beth Trombold

Lawrence K. Friedeman



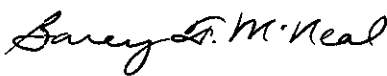
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