

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE AUTHORIZATION
OF CSX TRANSPORTATION TO UPGRADE
ACTIVE WARNING DEVICES AT EIGHT
GRADE CROSSINGS IN THE CITY OF
MARION, MARION COUNTY.**

CASE NO. 18-292-RR-FED

FINDING AND ORDER

Entered in the Journal on April 4, 2018

I. SUMMARY

{¶ 1} The Commission directs CSX Transportation to upgrade active warning devices at the Main Street/State Route 4, Prospect Street, State Street, and Oak Street grade crossings in the city of Marion, Marion County, by April 4, 2019, subject to the Commission's ongoing jurisdiction and oversight.

II. DISCUSSION

{¶ 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} CSX Transportation (CSX) is a railroad as defined in R.C. 4907.02 and subject to the jurisdiction of the Commission under R.C. 4905.04.

{¶ 6} On February 15, 2018, Staff filed a memorandum stating that the ORDC has authorized funding for CSX to upgrade active warning devices at eight grade crossings in the city of Marion. Plans and estimates have been approved, subject to revision after bid tabulation. Federal funds will cover 75 percent of the costs, with 25 percent of the costs paid by CSX, as follows:

DOT#	Improvement	Street	Federal Funds	CSX Funds
518421W	Install cantilever flashing lights/gates	Main Street/ State Route 4	\$264,381.75, subject to revision after bid tabulation	\$88,127.25, subject to revision after bid tabulation
262079Y	Install cantilever flashing lights/gates	Main Street/ State Route 4	\$244,514.25, subject to revision after bid tabulation	\$81,504.75, subject to revision after bid tabulation
518419V	Install mast-mounted flashing lights/gates	Prospect Street S.	\$196,378.50, subject to revision after bid tabulation	\$65,459.50, subject to revision after bid tabulation
262080T	Install one cantilever flashing lights/gate and one mast-mounted lights/gate	Prospect Street N.	\$219,729.00, subject to revision after bid tabulation	\$73,243.00, subject to revision after bid tabulation

518422D	Install one cantilever flashing lights/gate and one mast-mounted lights/gate	N. State Street	\$240,219.75, subject to revision after bid tabulation	\$80,073.25, subject to revision after bid tabulation
262076D	Install cantilever flashing lights/gates	N. State Street	\$233,530.50, subject to revision after bid tabulation	\$77,843.50, subject to revision after bid tabulation
518417G	Install one cantilever flashing lights/gate and one mast-mounted lights/gate	Oak Street	\$235,421.25, subject to revision after bid tabulation	\$78,473.75, subject to revision after bid tabulation
262083N	Install one cantilever flashing lights/gate and one mast-mounted lights/gate	Oak Street	\$215,704.50, subject to revision after bid tabulation	\$71,901.50, subject to revision after bid tabulation

Staff notes that the crossings were surveyed on August 28, 2013, and August 29, 2013, and were found to warrant the upgrades. Staff requests that the Commission issue an order directing completion of the projects within 12 months.

{¶ 7} 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 projects 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.

{¶ 8} Within 30 days of the issuance of this Finding and Order, CSX shall file notice that it has initiated discussions with Ohio Edison Company (OEC), 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 OEC, 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. CSX shall serve a copy of the notice upon OEC or any other applicable utility. To ensure that the deadline is met, OEC 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 April 4, 2019.

{¶ 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 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. 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 May 4, 2018, CSX file notice that it has initiated with OEC, 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 CSX follow the detailed instructions as outlined in the ORDC letter of construction authorization and proceed with and complete the projects by April 4, 2019. It is, further,

{¶ 16} ORDERED, That CSX notify Staff and ORDC 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 CSX timely notify Staff and ORDC 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, at the time Staff or ORDC makes its final inspection and finds that the installations 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 are complete and the warning devices have been put in service. It is, further,

{¶ 19} ORDERED, That a copy of this Finding and Order be served upon ORDC, CSX, Director of Public Works for the city of Marion, OEC, and any other interested person of record.

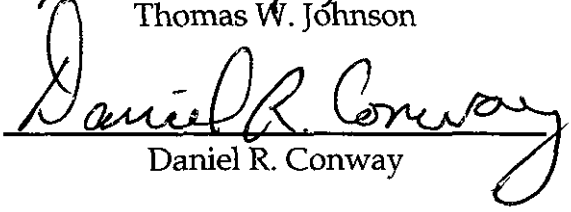
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