

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REQUEST OF
NORFOLK SOUTHERN RAILWAY COMPANY
TO MODIFY THE WARNING DEVICES AT
THE EARL ROAD/CR 348 GRADE CROSSING
(503145C) IN STARK COUNTY.

CASE NO. 18-333-RR-RCP

FINDING AND ORDER

Entered in the Journal on May 9, 2018

I. SUMMARY

{¶ 1} The Commission approves the request of Norfolk Southern Railway Company to modify the warning devices at the Earl Road/CR 348 grade crossing in Stark County, Ohio.

II. DISCUSSION

{¶ 2} Pursuant to R.C. 4905.04, the Commission has jurisdiction to regulate railroads and to promulgate and enforce orders relating to the protection, welfare, and safety of railroad employees and the traveling public.

{¶ 3} The Commission's regulatory powers regarding railroads are enumerated in R.C. Chapter 4907. R.C. 4907.52 provides that when a railroad and a street or highway cross at grade and, in the opinion of the Commission, public safety requires protection, the Commission may make an order requiring a railroad to install such devices as will properly protect the crossing. Additional statutory provisions authorize the Commission to inspect grade crossings to determine the need to install protective devices, upgrade warning devices, or close crossings to vehicular traffic. *See R.C. 4907.47, 4907.471, 4907.474, and 4907.475.*

{¶ 4} Norfolk Southern Railway Company (NSRC) is a railroad as defined by R.C. 4907.02 and, therefore, is subject to the Commission's regulatory jurisdiction.

{¶ 5} On February 26, 2018, NSRC filed a request to modify the warning devices at the Earl Road/CR 348 grade crossing (DOT #503145C) in Stark County, Ohio. NSRC represents that the crossing is situated on an industrial line that is not currently in-service, with the rail cut on both sides of the roadway, and is currently protected by one flasher located in the northeast quadrant of the crossing. Since no trains can access the crossing, NSRC requests the Commission's consent to remove the flasher and, in its stead, place a standard crossbuck with yield signs. NSRC adds that, because the crossing is presently interconnected with the adjacent RJ Corman crossing (DOT #142547K), the interconnect would need to be removed if the Commission approves the requested modification.

{¶ 6} NSRC expects that the project could be completed within three months from the date of the Commission order authorizing a modification. Additionally, in the event that the industrial line would return to service, NSRC states that it would advise the Commission and restore the crossing to its current condition.

{¶ 7} On March 9, 2018, the attorney examiner issued an Entry directing that interested parties file comments and Staff file a report of investigation no later than April 6, 2018.

{¶ 8} On March 26, 2018, Staff filed its report of investigation. Staff's inspection revealed that the subject crossing consists of one industrial line intersected by a two-lane, east-west roadway with a posted speed limit of 35 mph. The crossing currently has a standard flasher as an active highway rail grade crossing warning system and is interconnected with an RJ Corman Railroad crossing approximately 121 feet away that uses the same type of warning system. Staff's investigation confirmed that the rails have been removed on both sides of the crossing; further, the rails through the roadway have been paved over. Staff states that NSRC has no present or future plans to run trains over the crossing.

{¶ 9} Staff recommends that the Commission grant the requested modification as long as NSRC agrees to meet the following exceptions and stipulations: (1) if rail service is ever restored across the highway rail grade crossing, the active warning devices must be restored and meet the Manual of Uniform Traffic Control Devices (MUTCD) standards in effect at the time of restoration; (2) the grade crossing surface and active warning devices will be restored at NSRC's expense; and (3) because the line has not been formally abandoned by the Surface and Transportation Board (STB), NSRC understands it is required to provide rail service to any customer at any time it is requested on this line in the future to meet its common carrier obligation or face penalties from the STB. Staff further recommends that the Commission require NSRC to place and maintain crossbuck warning signs at the crossing and notify Staff when work is completed. Additionally, Staff should be required to conduct follow-up inspections to verify that the modifications have been made as approved.

{¶ 10} Upon review, the Commission finds that NSRC's request to modify the warning devices at the Earl Road/CR 348 grade crossing in Stark County, Ohio should be approved, subject to Staff's conditions. Accordingly, NSRC is authorized to remove the flasher located at the northeast quadrant of the crossing and, in its place, install and maintain crossbuck warning signs. NSRC must notify Staff when work is completed, and Staff must conduct follow-up inspections to verify that the modifications have been made as approved. If train service resumes on this line, NSRC is required to reinstall the active warning devices—at its own expense—to MUTCD standards in place at the time of reinstallation.

III. ORDER

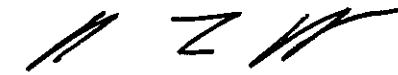
{¶ 11} It is, therefore,

{¶ 12} ORDERED, That NSRC's request to modify be approved, subject to Staff's conditions, as stated in Paragraph 10. It is, further,

{¶ 13} ORDERED, That NSRC complete the project by August 10, 2018. It is, further,

{¶ 14} ORDERED, That a copy of this Finding and Order be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



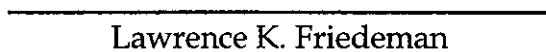
Asim Z. Haque, Chairman



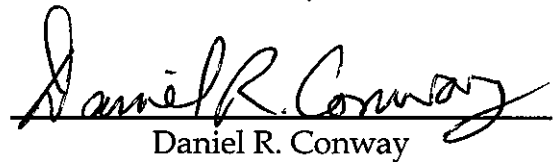
M. Beth Trombold



Thomas W. Johnson



Lawrence K. Friedeman



Daniel R. Conway

PAS/sc

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MAY - 9 2018



Barcy F. McNeal
Secretary