

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE AUTHORIZATION
OF NORFOLK SOUTHERN RAILWAY TO
INSTALL ACTIVE WARNING DEVICES AT
TWO CROSSINGS AND CLOSE ONE
CROSSING IN THE CITY OF CLYDE, IN
SANDUSKY COUNTY.

CASE NO. 18-550-RR-FED

FINDING AND ORDER

Entered in the Journal on May 9, 2018

I. SUMMARY

{¶ 1} The Commission authorizes Norfolk Southern Railway to install active warning devices at Nelson Street and Church Street, and close the crossing at Amanda Street, in the city of Clyde, by May 2, 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} Norfolk Southern Railway (NS) 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 April 9, 2017, Staff filed a memorandum indicating that ORDC has authorized funding for NS to install lights and gates at two crossings and close one crossing in the city of Clyde, Sandusky County. Details of the projects are as follows:

DOT#	Improvement or Closure	Street	Federal Funds Provided	Funds Received by City of Clyde from NS and/or ORDC
473691R	Install lights/gates	Nelson Street	\$353,805.00, subject to revision after bid tabulation	
473685M	Install lights/gates	Church Street	\$348,548.00, subject to revision after bid tabulation	
473692X	Closure of crossing	Amanda Street		\$33,000 from NS to be used for any purpose; up to \$5,000 from NS and \$5,000 from ORDC for pre-approved highway safety purposes

Staff notes that the crossings were surveyed on August 31, 2016, and were found to warrant the upgrades. Staff adds that plans and estimates have been approved, subject to revision after bid tabulation, and will be paid fully by federal funds. The total cost of the projects is \$702,513.00. Staff requests that the Commission issue an order directing completion within 12 months.

{¶ 7} Upon review, NS is hereby authorized to acquire projects materials and to commence construction as detailed in the letter of construction authorization. NS 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, NS 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, NS shall file notice that it has initiated discussions with Clyde Light and Power (CLP) 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 NS has taken with CLP, any other electric utility, and the local highway authority to have electric service available during the construction and cut-in phases of the projects. NS shall serve a copy of the notice upon CLP and any other applicable utility. To ensure that the deadline is met, CLP 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 May 2, 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 NS 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, NS 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 projects 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 June 2, 2018, NS 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 NS follow the detailed instructions as outlined in the ORDC letter of construction authorization and proceed with and complete the projects by May 2, 2019. It is, further,

{¶ 16} ORDERED, That NS notify Staff at least five working days before the date work is scheduled to begin at the projects sites so that arrangements can be made for any inspection. It is, further,

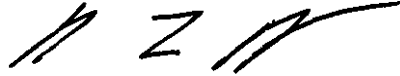
{¶ 17} ORDERED, That NS timely notify Staff of any changes in the scope of work, cost overruns, materials, etc., which are not in the approved plans and estimates, and shall secure approval before the work is performed. It is, further,

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

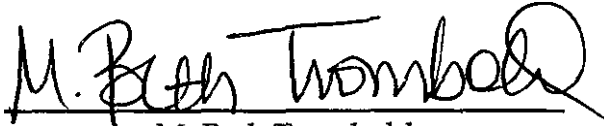
{¶ 19} ORDERED, That, at the time Staff or ORDC makes its final inspection and finds that the installations and modifications at the grade crossings are complete and the warning devices have been put in service, Staff will file a memorandum in this docket indicating that the installations and modifications are complete and the warning devices have been put in service. The memorandum should also include Staff's findings that the surface improvements are complete and the traffic signal preemption is in operation. It is, further,

{¶ 20} ORDERED, That a copy of this Finding and Order be served upon ORDC, NS, city of Clyde, CLP, and any other interested person of record.


THE PUBLIC UTILITIES COMMISSION OF OHIO



Asim Z. Haque, Chairman



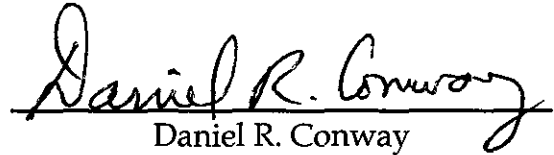
M. Beth Trombold



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Barcy F. McNeal
Secretary