

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE AUTHORIZATION
OF CSX TRANSPORTATION TO INSTALL
NEW ACTIVE WARNING DEVICES AT
WASHINGTON STREET IN THE CITY OF
DAYTON, MONTGOMERY COUNTY.

CASE NO. 17-2292-RR-FED

ENTRY

Entered in the Journal on December 19, 2018

{¶ 1} On December 20, 2017, the Commission issued a Finding and Order approving the installation by CSX Transportation (CSX) of new lights and gates at the Washington Street grade crossing (DOT#155116F), in the city of Dayton, in Montgomery County. The Commission ordered completion of the project by September 20, 2018.

{¶ 2} On July 19, 2018, CSX filed a request to extend the project deadline. CSX stated that it is experiencing limited work crew availability because of federal requirements to implement positive train control. CSX requested a 90-day extension of time, until December 20, 2018, to complete the project.

{¶ 3} On August 15, 2018, Staff filed a memorandum concerning CSX's request. Staff noted that Norfolk Southern Railway (NS) and CSX have adjacent tracks at the same crossing; consequently, the CSX project is tied in with the NS light and gate project in Case No. 16-2181-RR-FED.¹ Staff explained that the NS project is on hold until CSX completes its project at Washington Street. Staff adds that while ORDC is not opposed to the extension request, the CSX project must be completed before NS can finish its work at the same location. Staff recommended that the Commission grant CSX's request and direct CSX to complete its project by December 20, 2018. Staff emphasized that no additional time extensions would be considered unless firm construction deadlines are provided.

¹ See *In re Authorization of Norfolk Southern Railway Company to Install New Active Warning Devices at Albany Street and Washington Street, City of Dayton, Montgomery County*, Case No. 16-2181-RR-FED, Finding and Order (Dec. 21, 2016).

{¶ 4} In a September 19, 2018 Entry, the Commission approved a 90-day extension of time to December 20, 2018.

{¶ 5} On November 13, 2018, CSX filed a second request for additional time. CSX asserts that in May 2018 it was informed by NS that NS would not finish its work until early 2019. CSX adds that it was later notified by ORDC and the Commission that NS's work is complete. Upon receiving the updated information, CSX scheduled its project to begin January 14, 2019, with an expected ending date 37 days later. CSX notes that material for the job is being ordered.

{¶ 6} On December 1, 2018, Staff filed its response to CSX's November 13, 2018 request. Staff contends that, when the Commission initially approved the project in December 2017, Staff had informed CSX that NS's work was stalled until CSX completed its work. According to Staff, ORDC does not oppose extending the project deadline further, but feels that more time should be granted only for material delivery and construction, because NS has 60 days beyond CSX's completion before crossing work is finished. Staff recommends that the Commission grant a 60-day extension for CSX to complete its project.

{¶ 7} Pursuant to the Commission's September 19, 1996 Entry in *In re 1996 Federal Crossing Protection Program*, Case No. 96-676-RR-FED, the Commission authorized the attorney examiner assigned to the case to grant extensions for up to 30 days.

{¶ 8} Upon review of CSX's request and Staff's recommendation, the attorney examiner finds that a 30-day extension of time should be granted. Unless otherwise authorized, CSX should complete the project as soon as possible, but no later than January 18, 2019.

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That CSX be granted a 30-day extension of time to finish the project. It is, further,

{¶ 11} ORDERED, That, unless otherwise authorized, CSX complete the project as soon as possible, but no later than January 18, 2019. It is, further,

{¶ 12} ORDERED, That CSX follow all standard railroad crossing safety protocol to ensure the protection of the traveling public at the crossing. It is, further,

{¶ 13} ORDERED, That Staff or ORDC makes its final inspection and finds that the project is completed, Staff file a memorandum in this docket indicating that the project is completed. It is, further,

{¶ 14} ORDERED, That a copy of this Entry be served upon ORDC, CSX, NS, City Engineer of Dayton, DP&L, and any other interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/James M. Lynn

By: James M. Lynn
Attorney Examiner

JRJ/hac

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Case No(s). 17-2292-RR-FED

Summary: Attorney Examiner Entry granting extension to finish project electronically filed by Heather A Chilcote on behalf of James M. Lynn, Attorney Examiner, Public Utilities Commission