

Memo

To: Docketing Division
From: Jill Henry, Rail Specialist, Rail Division
Cc: PUCO Legal Department
Date: 2/22/2019

Re: PUCO Case No. 17-1508-RR-FED- In the Matter of an Extension Request for the Installation of New Active Warning Devices at Norfolk Southern Railway Grade Crossings, Stewart Street (DOT# 524-628S), Irwin Street (DOT#527-818F), Miami Chapel Road (DOT#524-629Y), & Findlay Street (DOT#527-819M), in Montgomery County, Ohio.

On October 5, 2015, the Ohio Rail Development Commission (ORDC) authorized funding for Norfolk Southern Railway (NS) to install new warning devices at Stewart Street (DOT# 524- 628S), Irwin Street (DOT#527-818F), Miami Chapel Road (DOT#524-629Y), & Findlay Street (DOT#527-819M), in Montgomery County, Ohio. The crossings were surveyed on May 3, 2011 and were found to warrant the upgrades.

On July 26, 2017, the Commission approved the project and ordered completion by July 26, 2018.

On July 12, 2018, NS filed for an extension until December 31, 2020. On August 17, 2018, NS filed an amended request for an extension until November 15, 2018. In the request, NS states that they are working to complete PTC (Positive Train Control) projects and their resources are being used to meet the federal mandate of December 31, 2018 for PTC.

ORDC and Staff recommended the 90 day extension request, but noted that these are safety projects and Staff does not support ongoing delays. On September 19, 2018, the Commission granted the 90 day extension request until November 15, 2018.

On November 1, 2018, NS filed a 30 day extension request. In the request, NS states that Irwin Street and Findlay Street are scheduled to be put in service next week, but they need additional time for Miami Chapel Road and Stewart Street. They anticipate putting the remaining crossings in service prior to December 15, 2018. On November 13, 2018, the Commission approved a 30 day project extension.

On November 14, 2018, NS filed an amended request to allow for a 30 day extension for Findlay Street. Overhead electric line issues have delayed completion of the project and are being resolved.

On December 3, 2018, NS filed a 30 day extension request for Miami Chapel Road and a 120 day extension request for Stewart Street and Findlay Street. Based upon e-mail discussions concerning these crossings, it appears to Staff that the utility issues are being addressed, but have delayed construction completion. On December 27, 2018, the Commission granted a 30 day extension request until January 11, 2019.

On December 27, 2018, NS filed an additional project extension request until July 11, 2019. In the request they state that utility conflicts remain at the Stewart Street, Miami Chapel Road, and Findlay Street. No additional details about the conflict or a proposed timeline for removal of the conflict were given. The Commission granted a 30 day extension until February 11, 2019.

On February 8, 2019, NS filed a 5 month extension request. In the request they note that Miami Chapel Road was put into service on February 4, 2019, Findlay Street is scheduled to be in-service by February 12, 2019. Stewart Street is the remaining crossing to be completed.

Staff notes that NS is working to resolve the utility conflicts and has completed 3 of the 4 crossings to be upgraded in this case. However, these safety projects have been in the works for many years and need to be completed.

Staff recommends that NS be granted a 90 day extension until May 13, 2019 the Stewart Street crossing. Staff notes that this remaining overhead conflict has been delayed in resolution due to the NS permitting process. Additionally, Staff notes that NS could begin construction prior to the overhead conflict being resolved. Coordination would be required to complete the in-service cut in.

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

: Case No. 17-1508-RR-FED

: **REQUEST TO EXTEND**

: **CONSTRUCTION DEADLINE**

:

: D. Casey Talbott (0046767)

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: Attorneys for Norfolk Southern

: Railway Company

Norfolk Southern Railway Company ("NSRC") respectfully requests an extension of time of five (5) months – through July 11, 2019 – within which to complete the final one of four involved construction projects in Dayton, Montgomery County.

A memorandum in support is attached.

Respectfully submitted,
EASTMAN & SMITH LTD.

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MEMORANDUM IN SUPPORT

Recall that this case involves construction projects at four separate grade crossings in Dayton, Montgomery County: Irwin Street (DOT #527818F), Miami Chapel Road (DOT #524629Y), Findlay Street (DOT #527819M), and Stewart Street (DOT #524628S).

Substantial progress has been made – specifically, Irwin was placed in-service as of November 5, 2018, Miami Chapel was placed in-service on February 4, 2019, and weather permitting, Findlay is expected to be placed in-service on February 12, 2019.

But outstanding utility conflicts have delayed final construction and cut-in at the remaining crossing – specifically, Stewart.

In response to NSRC's most recent extension request, the Commission requested that NSRC provide further information regarding any outstanding conflicts, as well as a plan and timeframe for anticipated resolution/cut-in.

By way of greater information: There are multiple remaining overhead utility conflicts (Dayton Power & Light, Spectrum/Charter, and Windstream/Crown Castle) involving shared poles. NSRC is working with the involved utilities, toward resolving same – specifically, to NSRC's

understanding, both Spectrum/Charter and Windstream/Crown Castle intend to transfer their utilities to new poles. Related permitting concerns have been resolved, and the involved utility companies are now following toward construction which includes running a new strand and fiber across the tracks, with a requisite three week lead time. Once the utility conflicts are resolved, then NSRC anticipates that it will need an additional seven (7) weeks or thereabouts (the estimate provided to and approved by the ORDC) within which to complete construction and cut-in.

For the foregoing reasons, NSRC respectfully requests that the Commission grant it a further extension of time here, through July 11, 2019, within which to complete construction at Stewart.

NSRC has been in contact with the ORDC with respect to the above, toward resolving related concerns, including federal funding.

Respectfully submitted,
EASTMAN & SMITH LTD.

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PROOF OF SERVICE

A copy of the foregoing **Request to Extend Construction Deadline** was filed electronically with the Commission this 8th day of February, 2019. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/ D. Casey Talbott
Attorney for Norfolk Southern
Railway Company

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2/8/2019 2:40:24 PM

in

Case No(s). 17-1508-RR-FED

Summary: Request Request to Extend Construction Deadline electronically filed by Mr. D. Casey Talbott on behalf of Norfolk Southern Railway Company

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 17-1508-RR-FED

Summary: Response In the Matter of an Extension Request for the Installation of New Active Warning Devices at Norfolk Southern Railway Grade Crossings, Stewart Street (DOT# 524-628S), Irwin Street (DOT#527-818F), Miami Chapel Road (DOT#524-629Y), & Findlay Street (DOT#527-819M), in Montgomery County, Ohio. electronically filed by Mrs. Jill A Henry on behalf of PUCO/Rail Division