

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF A REQUEST FOR THE  
INSTALLATION OF ACTIVE WARNING  
DEVICES AT THE INDIANA & OHIO  
RAILROAD GRADE CROSSING AT  
MORROW ROSSBURG ROAD/COUNTY  
ROAD 27 IN WARREN COUNTY.

CASE NO. 18-267-RR-STP

## ENTRY

Entered in the Journal on July 31, 2019

### I. SUMMARY

{¶ 1} The Commission denies Indiana & Ohio Railroad's request for additional time to install active warning devices at the Morrow Rossburg Road/County Road 27 grade crossing in Warren County.

### 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 is responsible for evaluating public grade crossings to determine the need for installing active warning devices and apportioning the cost thereof.

{¶ 4} R.C. 4907.471 also provides that the Commission is responsible for the administration and implementation of the State Grade Crossing Protection Fund, established to help defray a portion of the public's share of the cost of upgrading warning devices at Ohio's highway-railroad grade crossings.

{¶ 5} Indiana & Ohio Railroad (IORY) 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 March 14, 2018, the Commission issued a Finding and Order approving IORY's installation of active warning devices at the Morrow Rossburg Road/County Road

27 grade crossing (DOT#151316B) in Warren County. The Commission ordered project completion by March 14, 2019.

{¶ 7} On March 7, 2019, IORY filed a request for an additional 180 days to complete the project. IORY explained that the project has been delayed because of a transition period while IORY changed to a different general engineering consultant. IORY added that the transition was finished, and the new consultant is working on finalizing the bidding and getting construction under way.

{¶ 8} On March 15, 2019, Staff filed a memorandum, stating that while the Ohio Rail Development Commission (ORDC) supported the request, ORDC noted that this is a safety project. Staff concluded that a 180-day extension is excessive and recommended a 90-day extension, until June 14, 2019.

{¶ 9} In an April 10, 2019 Entry, the Commission granted until June 14, 2019 for IORY to complete the project.

{¶ 10} IORY filed another request for additional time on June 14, 2019. IORY stated that it has been working on the project since June 8, 2018, but had mistakenly believed that the Commission approved IORY's request to extend the project deadline by 180 days, to September 10, 2019. Consequently, adds IORY, finalizing arrangements with an engineering consultant are taking longer than expected. IORY requests until November 22, 2019, to complete the project.

{¶ 11} On June 21, 2019, Staff filed a memorandum noting that IORY was served with a copy of the May 10, 2019 Entry indicating that additional time was only extended to June 14, 2019. Staff states that IORY has made little progress toward completing the design for the project, and that while ORDC supports a project extension, ORDC notes that this is a safety project. Staff recommends approval of the extension request.

{¶ 12} Upon review of IORY's request and Staff's recommendation, the Commission finds that IORY's request for additional time should be denied. As discussed by Staff, IORY

was served with the May 10, 2019 Entry establishing a deadline of June 14, 2019. Regardless of whether the deadline was June 14, 2019, or, as originally requested by IORY, September 10, 2019, it appears little progress has been made. Accordingly, as this is a safety project and one extension was already granted, the Commission does not find that good cause exists to grant an additional extension.

### III. ORDER

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That IORY's request for additional time to complete the project be denied. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon IORY, ORDC, Warren County Engineer, Duke, and any other interested person of record.

COMMISSIONERS:

*Approving:*

Sam Randazzo, Chairman  
Lawrence K. Friedeman  
Daniel R. Conway

JML/hac

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**7/31/2019 3:01:29 PM**

**in**

**Case No(s). 18-0267-RR-STP**

Summary: Entry that the Commission denies Indiana & Ohio Railroad's request for additional time to install active warning devices at the Morrow Rossburg Road/County Road 27 grade crossing in Warren County electronically filed by Docketing Staff on behalf of Docketing