

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE AUTHORIZATION
OF AKRON BARBERTON CLUSTER
RAILWAY TO UPGRADE FIVE GRADE
CROSSINGS IN PORTAGE AND SUMMIT
COUNTIES.

CASE NO. 19-1394-RR-STP

FINDING AND ORDER

Entered in the Journal on July 31, 2019

I. SUMMARY

{¶ 1} The Commission approves a stipulation agreement to install LED lights at one grade crossing in Portage County and four grade crossings in Summit County by July 31, 2020, 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 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} Pursuant to Ohio Adm.Code 4901-1-30, any two or more parties may enter into a written stipulation concerning issues of fact.

{¶ 6} Akron Barberton Cluster Railway (AB) is a railroad as defined in R.C. 4907.02 and subject to the jurisdiction of the Commission under R.C. 4905.04.

{¶ 7} On June 28, 2019, Staff filed a memorandum stating that the Staff and AB entered into a subsidy stipulation whereby AB will install LED lights at one grade crossing in Portage County and four grade crossings in Summit County. Staff states that AB provided a list of its crossings that had incandescent lights; this project will complete lighting upgrades at all AB crossings. Staff has reviewed the subsidy agreement and determined it to be in order. Staff recommends that the Commission adopt the agreement and direct AB to complete the upgrades within one year.

{¶ 8} The following is a summary of the conditions agreed to by the parties and is not intended to replace or supersede the stipulation. Under the Stipulation:

- (a) Within 12 months from the date of the Commission Finding and Order adopting the stipulation, AB will install LED lights at the Oakwood Street grade crossing (DOT#262575U) in the city of Ravenna, Portage County, and the Tuscarawas Avenue (DOT#837689Y), 4th Street (DOT#265086U), Hopocan Avenue (DOT#837703S), and Cleveland-Massilon Road (DOT#265083Y) grade crossings in the city of Barberton, Summit County;
- (b) The parties agree to comply with the terms of the stipulation and the Finding and Order adopting the stipulation;
- (c) The Commission will provide funds from the State Grade Crossing Protection Fund to cover the Commission's cost of the projects.

{¶ 9} While actual project design and cost estimates are not yet complete, preliminary cost estimates of the projects are to be apportioned as follows.

DOT#	Improvement	Street/City/ County	State Funds	AB Funds
262575U	Install LED lights	Oakwood Street, Ravenna, Portage County	\$7,500.00 per crossing	Costs exceeding \$7,500.00
837689Y	Install LED lights	Tuscarawas Avenue, Barberton, Summit County	\$7,500.00 per crossing	Costs exceeding \$7,500.00
265086U	Install LED lights	4 th Street, Barberton, Summit County	\$7,500.00 per crossing	Costs exceeding \$7,500.00
837703S	Install LED lights	Hopocan Avenue, Barberton, Summit County	\$7,500.00 per crossing	Costs exceeding \$7,500.00
265083Y	Install LED lights	Cleveland- Massillon Road, Barberton, Summit County	\$7,500.00 per crossing	Costs exceeding \$7,500.00

{¶ 10} Staff requests a Commission order that adopts the stipulation, directs AB to submit plans and estimates to the Commission within 90 days, and requires completion of the project within one year.

{¶ 11} Upon review of the stipulation, the Commission finds that the terms and conditions therein ensure the timely protection of the public at the crossings and provide a reasonable basis for apportioning costs thereof. Therefore, the stipulation should be approved and, accordingly, the cost of the projects should be allocated as set forth therein.

{¶ 12} In order to expedite the activation of the warning devices, the Commission no longer requires railroad companies to delay such activation pending the final inspection by

Staff. However, OSCR should notify Staff 30 days before the projected date of completion. At the time Staff makes its final inspection of the devices and finds that the installations have been completed and the warning devices have been put in service, Staff should file a memorandum in this docket indicating that the installations have been completed and the warning devices have been put in service.

{¶ 13} With the intention of promoting increased public safety during the pendency of this project, the Commission urges the appropriate local government agency to make an immediate assessment of interim physical improvements which would enhance driver awareness at the project crossings. The Commission may provide assistance in funding improvements such as rumble strips, illumination, signs, or other safety enhancements at the project locations. Applications for such funding should be made to the Commission's Transportation Department, Railroad Division, which shall review all proposals. 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 crossings. However, the local government agency should not initiate any improvements until a contract has been executed.

III. ORDER

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That AB proceed with and complete the project by July 31, 2020. It is, further,

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

{¶ 17} ORDERED, That AB 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 AB notify the Commission and the Ohio Rail Development Commission (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 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 are complete and the warning devices have been put in service. It is, further,

{¶ 20} ORDERED, That a copy of this Finding and Order be served upon AB, Ohio Edison Company, and any other interested person of record.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman

Lawrence K. Friedeman

Daniel R. Conway

JML/hac

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Case No(s). 19-1394-RR-STP

Summary: Finding & Order that the Commission approves a stipulation agreement to install LED lights at one grade crossing in Portage County and four grade crossings in Summit County by July 31, 2020, subject to the Commission's ongoing jurisdiction and oversight electronically filed by Docketing Staff on behalf of Docketing