

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF A REQUEST BY  
TUSCARAWAS TOWNSHIP FOR AN  
EXEMPTION FROM STOPPING FOR  
SCHOOL BUSES AND HAZARDOUS  
MATERIALS VEHICLES AT THE PLEASANT  
VALLEY DRIVE GRADE CROSSING IN  
TUSCARAWAS TOWNSHIP, COSHOCTON  
COUNTY.

CASE NO. 19-844-RR-RCP

## OPINION AND ORDER

Entered in the Journal on November 6, 2019

### I. SUMMARY

{¶ 1} The Commission grants a request by the Coshocton County Engineer, filed on behalf of the Tuscarawas Township Trustees, for an exemption from stopping for school buses and hazardous materials vehicles at the Pleasant Valley Drive grade crossing in Tuscarawas Township, Coshocton County.

### II. FACTS AND PROCEDURAL BACKGROUND

{¶ 2} On April 9, 2019, Frederick Wachtel, the Coshocton County Engineer, filed a letter on behalf of the Tuscarawas Township Trustees. In the letter, Mr. Wachtel requests an exemption for school buses and motor vehicles carrying certain hazardous materials from stopping at the Pleasant Valley Drive grade crossing (DOT#474190P) in Tuscarawas Township, Coshocton County. Mr. Wachtel notes that the Ohio Central Railroad (OHCR) has recently removed a nearby crossing and the removal prevents trains from traveling through the area.

{¶ 3} By Entry issued April 23, 2019, the attorney examiner scheduled a local public hearing in this matter for June 19, 2019. The attorney examiner directed the Secretary of the Commission to publish notice of the hearing in a newspaper of general circulation in Coshocton County. The Entry also directed Staff to file, no later than June 10, 2019, a report of its investigation on the exemption request. Finally, the attorney examiner directed interested persons to file comments on the exemption request by June 12, 2019.

{¶ 4} On May 2, 2019, Joel Moore, the Director of Operations and Transportation, River View Local School District, filed a comment regarding this proceeding. In the comment, Mr. Moore indicates that a River View school bus travels along the Pleasant Valley Drive grade crossing twice daily while school is in session. Mr. Moore explains that the grade crossing requires the bus driver to stop, activate the bus's hazard lights, check for an approaching train, and then proceed, even though there are no train tracks in the crossing area. Furthermore, Mr. Moore states that area residents are usually caught off-guard when the bus stops twice daily at this crossing because there are no actual train tracks. According to Mr. Moore, this creates a hazard twice a day for students traveling in the bus.

{¶ 5} On May 22, 2019, Staff filed a staff report (Staff Report) regarding its investigation of the request made by the Coshocton County Engineer. Staff recommends that exemption request be granted, with the requirement that the railroad place a stop and flag order on the crossing for any future train movements.

{¶ 6} On June 10, 2019, the Commission published notice of the public hearing in the Coshocton Tribune, which is a newspaper of general circulation in Coshocton County.

{¶ 7} A public hearing was conducted on June 19, 2019, at the Coshocton Public Library, Coshocton, Ohio.

### III. LAW

{¶ 8} The Commission's authority to grant an exemption from stopping at railroad grade crossings, applicable to school buses and vehicles placarded for hazardous materials, is found in R.C. 4511.63, which provides, in part:

Except as provided in division (B) of this section, the operator of any bus, any school vehicle, or any vehicle transporting a material or materials required to be placarded under 49 Code of Federal Regulations (C.F.R.) Parts 100-185, before crossing at grade any track of a railroad, shall stop the vehicle.

Division (B) of Section 4511.63, Revised Code, provides that the section does not apply at railroad grade crossings when the Commission has authorized and approved an exempt crossing pursuant to the division.

#### IV. SUMMARY OF THE EVIDENCE

{¶ 9} In its Staff Report filed on May 22, 2019, Staff observes that the crossing is owned and maintained by OHCR. Staff indicates that the Pleasant Valley Drive grade crossing (DOT#474190P) currently consists of one main track and has standard crossback and yield signs as a passive highway rail grade crossing warning system. According to Staff, OHCR has confirmed that the rail line in question is out of service and that there is no train service at this crossing. Staff further notes that on August 15, 2016, OHCR advised Staff of the status of crossings in the Coshocton area related to this line. Staff states that the crossings at Cambridge Road and Chestnut Street are already downgraded and the rails have been pulled on both sides of the crossings and removed from the street. The rails are also pulled on the south side of Otsego Avenue. The crossings between Chestnut Street and Otsego Avenue are inaccessible. Staff notes that OHCR has not had any train traffic over these crossings in several years, does not intend to run trains over them in the foreseeable future, and OHCR does not objection to the exemption. (Staff Report at 3-4.)

{¶ 10} Because the roadway is used by both school buses and hazardous material vehicles, Staff concludes that the exemption would help reduce the possibility of rear end collisions at the crossing, which has no current rail traffic. Staff recommends the Commission grant the exemption with the requirement that OHCR place a stop and flag order on the crossing for any future train movements over the Pleasant Valley Drive grade crossing. In the event rail traffic greatly increases, Staff recommends a review of the exemption status to determine whether it should be maintained. (Staff Report at 4-5.)

{¶ 11} At the October 19, 2018 hearing, one witness, Mr. Moore, testified in support of the exemption request; there was no opposing testimony. Mr. Moore reiterated that local

drivers are unsure why River View school buses stop at the Pleasant Valley Drive grade crossing because there are no tracks. Mr. Moore represented that this creates a hazard to school buses and students because potentially unaware drivers may be caught off guard and rear end the buses. (Tr. at 3-4.)

## V. COMMISSION CONCLUSION

{¶ 12} R.C. 4511.63 provides that, after considering any comments or other information received, the Commission may approve or reject an application for an exemption and may establish conditions for the exempt crossing designation. R.C. 4511.63(B)(2) also provides that an exempt crossing becomes effective only when appropriate signs giving notice of the exempt designation are erected at the crossing, as ordered by the Commission, and any other conditions ordered by the Commission are satisfied.

{¶ 13} After consideration of the evidence, we find that, pursuant to R.C. 4511.63, the request for an exemption is warranted for the Pleasant Valley Drive grade crossing (DOT#474190P). Staff's investigative report, as well as testimony at the hearing, indicate that the OHCR-owned rail line in question is out of service and that there is no train service at the Pleasant Valley Drive grade crossing (Staff Report at 4; Tr. at 4-5). The evidence also shows that, because the crossing is not in use, there is some likelihood that local motor vehicle drivers do not expect school buses and hazardous materials vehicles to stop at the crossings, thereby increasing the risk of accidents (Staff Report at 4; Tr. at 4-5).

{¶ 14} Upon considering the evidence, and pursuant to R.C. 4511.63, the Commission finds it reasonable to grant the request to exempt school buses and certain hazardous materials vehicles from stopping at the crossing, as would usually be required by 49 C.F.R. 392.10. We note that, because there are no rail movements at the crossing, there is no risk of train/vehicle collisions. Furthermore, the exemption will decrease the potential for accidents caused by inattentive drivers not realizing that a school bus or placarded vehicle has stopped in front of them. Notwithstanding our granting of the exemption request, all

vehicles, including those covered by the exemption, must fully comply with all other state of Ohio motor vehicle safety rules and obey all existing warning devices whenever a train is operating over a grade crossing.

{¶ 15} Accordingly, the Coshocton County Engineer, as the local highway authority (LHA), should place signs marked “Exempt” that are in conformance with the Ohio Manual of Uniform Traffic Control Devices at the respective crossing and at other appropriate locations in advance of the crossing. Additionally, we find that OHCR must place a stop and flag order at the crossing for any future train movements over the crossing.

{¶ 16} Further, R.C. 4511.63 provides that the Commission may rescind any exempt crossing designation made under this section, if it finds that a condition at the exempt crossing has changed to such an extent that continuing the exempt crossing designation compromises public safety. If OHCR or any other railroad files a petition to rescind the granted exemption, we shall reconsider such petitions according to R.C. 4511.63. We note that the granting of the exemption request has no impact on the railroad, since OHCR is not currently conducting any operations affecting the crossing under consideration in these proceedings. Nevertheless, OHCR should provide advance notice to the Commission, the Coshocton County Engineer, and the Director of Operations and Transportation, River View Local School District, regarding the Pleasant Valley Drive grade crossing (DOT#474190P), if OHCR intends to resume rail operations at the crossing in the future, which would impact school bus or hazardous material transportation activities. In the event rail operations are to resume at the crossing, the Commission will reevaluate the exemption.

## **VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

{¶ 17} On April 9, 2019, pursuant to R.C. 4511.63, Frederick Wachtel, the Coshocton County Engineer, filed a letter on behalf of the Tuscarawas Township Trustees. In the letter, Mr. Wachtel requested an exemption for school buses and motor vehicles carrying certain hazardous materials from stopping at the Pleasant Valley Drive grade crossing (DOT#474190P) in Tuscarawas Township, Coshocton County.

{¶ 18} The Commission published notice of the hearing in the Coshocton Tribune, a newspaper of general circulation in Coshocton County.

{¶ 19} On May 22, 2019, Staff filed a staff report regarding its investigation into the exemption request.

{¶ 20} A public hearing was conducted on June 19, 2019, at the Coshocton Public Library, Coshocton, Ohio.

{¶ 21} The request for an exemption from stopping for school buses, as well as certain commercial motor vehicles, as specified in 49 C.F.R. 392.10, is warranted based upon Staff's investigation and the evidence presented at the hearing regarding the crossing.

## VII. ORDER

{¶ 22} It is, therefore,

{¶ 23} ORDERED, That an exemption, pursuant to R.C. 4511.63, be granted to allow school buses and certain commercial motor vehicles, as specified in 49 C.F.R. 392.10, to proceed without stopping at the Pleasant Valley Drive grade crossing (DOT#474190P) in Coshocton County. It is, further,

{¶ 24} ORDERED, That the Coshocton County Engineer, as the LHA, place signs marked "Exempt" that are in conformance with the Ohio Manual of Uniform Traffic Control Devices at the Pleasant Valley Drive grade crossing (DOT#474190P) in Coshocton County, and at other appropriate locations in advance of the crossing. It is, further,

{¶ 25} ORDERED, That OHCR place a stop and flag order at the crossing when train movements occur, and if train traffic increases at the crossing, notify the Commission of the increase in train movements. It is, further,

{¶ 26} ORDERED, That Staff should conduct a follow-up inspection to verify that exemption signs are posted, and update the Commission's rail database as needed. It is, further,

{¶ 27} ORDERED, That a copy of this Opinion and Order be served on OHCR, Coschocton County Engineer, Director of Operations and Transportation, River View Local School District, and all other persons of record.

COMMISSIONERS:

*Approving:*

Sam Randazzo, Chairman  
M. Beth Trombold  
Lawrence K. Friedeman  
Daniel R. Conway  
Dennis P. Deters

AS/mef

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**Commission of Ohio Docketing Information System on**

**11/6/2019 2:42:16 PM**

**in**

**Case No(s). 19-0844-RR-RCP**

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