

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REQUEST  
FOR A DOWNGRADE OF THE CHICAGO FT.  
WAYNE & EASTERN RAILROAD CROSSING  
IN THE VILLAGE OF MIDDLE POINT, VAN  
WERT COUNTY.

CASE NO. 19-1090-RR-RCP

## FINDING AND ORDER

Entered in the Journal on April 8, 2020

### I. SUMMARY

{¶ 1} The Commission denies the request of the Chicago Ft. Wayne & Eastern Railroad for a downgrade of the Main Street grade crossing in the village of Middle Point, Van Wert 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. 4907.52 provides that when a railroad and street or highway cross at grade, if, in the opinion of the Commission, public safety requires protection, the Commission may make an order requiring the railroad to install such devices as, in the opinion of the Commission, will properly protect such crossing.

{¶ 4} Chicago Ft. Wayne & Eastern Railroad (CFE) is a railroad as defined in R.C. 4907.02 and subject to the jurisdiction of the Commission under R.C. 4905.04.

{¶ 5} On May 13, 2019, CFE filed a letter requesting a downgrade of the Main Street grade crossing (DOT#532757C) in the village of Middle Point, Van Wert County. CFE explains that a truck hit and damaged the protective case for pedestrian warning bells at the crossing; because of the damage, CFE seeks authorization to remove the bells. CFE notes that crossbucks and stop signs are present at the crossing and contends that there is a “minimal car count” of only four trains daily. According to CFE, the Main Street crossing (DOT#532757C) is one of three crossings that are tied together through circuitry. Upon

receiving Commission approval, CFE adds, it will pay for removal of the warning bells and make necessary adjustments to the two other crossings.

{¶ 6} On May 28, 2019, the attorney examiner issued an Entry directing Staff to file a report of investigation by July 31, 2019, regarding CFE's request. Interested parties were also directed to file comments by July 31, 2019.

{¶ 7} Van Wert County Commissioners (VWCC) filed comments on July 18, 2019, opposing CFE's request. VWCC contends that Lincolnview Schools and the Thomas Edison Center School for Developmental Disabilities "have buses full of children that cross this intersection during the school year." VWCC add that the protection provided by the warning bells outweighs any benefits to CFE by removing the bells.

{¶ 8} The Middle Point Village Council (MPVC), the Middle Point Fire Department, and The Angels on Track Foundation filed comments on July 23, 2019, opposing CFE's request. Council notes that the only active warning device at the Main Street crossing (DOT#532757C) is the pedestrian bells, whereas the other two crossings in Middle Point have gates. MPVC disagrees with CFE that there is a minimal car count per day and contends that the crossing is needed by residents on the east side of the village. MPVC also asserts that school buses use the crossing and that foliage and structures block a clear view of the tracks; if the audible signal is removed, MPVC asserts, there will be a higher safety risk. Similarly, the Middle Point Fire Department contends that foliage and houses near the tracks create visibility problems, and with the increase in crude oil traveling by rail, removal of the pedestrian bells "is an accident waiting to happen." Comments by Angels on Track Foundation repeat many of the assertions made by the MPVC and the fire department, while adding that, although the daily vehicle count at the crossing is low, school buses use the crossing and would be in danger if the warning bells are removed.

{¶ 9} Staff filed its report of investigation on August 12, 2019. Staff explains that it mails surveys to all school districts annually, inquiring about school bus traffic over grade crossings, but did not receive a response from the Middle Point school system. Staff adds,

however, that a Commission field inspector visited Lincolnview Schools on July 23, 2019, and received confirmation from the superintendent that school buses do not use the Main Street grade crossing (DOT#532757C). Staff also contacted the Van Wert Developmental Disabilities (VWDD) Transportation Program and was informed that Thomas Edison Center school buses used the crossing in the past, but were uncertain whether that would continue in the 2019-2020 school year. Staff inspected the crossing on June 11, 2019, and confirmed that there is one main track, one stand alone pedestrian bell, and crossbucks with stop signs; the track speed was 49 miles per hour when the pedestrian bell was originally installed, but is now 25 miles per hour. Staff further determined that there was a school on the south side of the tracks that no longer exists. During a three-hour time span, Staff observed that only three vehicles and no pedestrians crossed the tracks. Staff was informed by CFE officials that there are two to four trains on the track daily, depending on the season; however, on July 30, 2019, Staff was informed by CFE that the daily train count has increased to nine because of recent operational agreements. Staff recommends that CFE's downgrade request be approved. Staff adds that, if the volume of train traffic or vehicle traffic increases, or if other conditions change, a diagnostic survey could be conducted to determine what types of additional safety measures are necessary.

{¶ 10} The Commission finds that CFE's downgrade request should be denied. We are persuaded by the safety concerns expressed by VWCC, MPVC, the local fire department, and Angels on Track. In addition, it is significant that VWDD officials could not state with certainty that Thomas Edison Center school buses would not use the crossing in the future. Finally, as discussed by Staff, we note that in the past couple years, daily train traffic has increased from up to four trains per day to, currently, nine trains per day. Given the sum of these factors, as R.C. 4905.04 authorizes the Commission to promote the welfare and safety of railroad employees and the traveling public, we deny the downgrade request.

### III. ORDER

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That CFE's downgrade request at the Main Street grade crossing (DOT#532757C) be denied. It is, further,

{¶ 13} ORDERED, That a copy of this Finding and Order be served upon Genessee & Wyoming Inc., CFE, Mayor of the Village of Middle Point, VWCC, MPVC, Middle Point Fire Department, Angels on Track Foundation, and any other interested person of record.

**COMMISSIONERS:**

*Approving:*

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

JML/hac

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Summary: Finding & Order denying the request of the Chicago Ft. Wayne & Eastern Railroad for a downgrade of the Main Street grade crossing in the village of Middle Point, Van Wert County. electronically filed by Ms. Mary E Fischer on behalf of Public Utilities Commission of Ohio