

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Authorization of the)
Wheeling & Lake Erie Railway and Norfolk)
Southern Railway to Install Active Grade) Case No. 12-1522-RR-FED
Crossing Warning Devices in Huron and)
Crawford Counties.)

FINDING AND ORDER

The Commission finds:

- (1) On May 11, 2012, the Commission's Staff (Staff) filed a memorandum stating that the Ohio Rail Development Commission (ORDC) had authorized funding for the Wheeling & Lake Erie Railway (W&LE) to install mast mounted flashing lights and roadway gates at the Young Road/Township Road 23 (473-653G) and Base Line Road/County Road 11 (001-977G) grade crossings, located in Huron County, and had authorized funding for Norfolk Southern Railway (NS) to install mast mounted flashing lights and roadway gates at the Carey Road/Township Road 27 grade crossing (481-581B), located in Crawford County. Staff recommended that the Commission establish a completion deadline of nine months for W&LE and NS to complete the projects.
- (2) Upon review, W&LE and NS are hereby authorized to acquire project materials and to commence construction as detailed in the letters of construction authorization. It is expected that all work necessary for Federal Highway Administration acceptance of the warning devices will be completed by the in-service due date and that the railroads will be responsible for this work. Such work includes any ancillary work to make the warning devices function as designed and visible to the roadway user, and in compliance with the Manual of Uniform Traffic Control Devices, including minor roadway work if necessary. W&LE and NS shall notify Staff at least five working days before the date work is scheduled to begin at the projects so that arrangements can be made for any inspections.

In addition, W&LE and NS shall 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 secure approval before the work is performed.

- (3) Within 30 days of the issuance of this finding and order, W&LE and NS shall file notice that they have initiated discussions with American Electric Power (AEP), Ohio Edison Company (OE), or any other applicable utility, to ensure that electric service will be available to enable the grade crossing improvements to be constructed and placed in service within the deadline specified by the Commission. Such filing shall identify the steps W&LE and NS have taken with AEP, OE, any other electric utility, and the local highway authority to have electric service available during the construction and cut-in phases of the projects. W&LE and NS shall each serve a copy of the notice upon AEP and OE. To ensure that the deadline is met, W&LE and NS shall timely inform the Commission, in writing, of any issues regarding the availability of electric service.
- (4) The Commission will issue no further construction authorization. Further, the grade crossing improvement projects should be completed by February 25, 2013.
- (5) In order to expedite the activation of the warning devices, the Commission no longer requires railroad companies to delay such activation pending final inspection by Staff. However, W&LE and NS should notify Staff and ORDC 30 days before the projected date of completion. At the time the Commission or ORDC Staff makes its final inspection of the devices, and if it finds that the identified installations are completed and the warning devices have been put in service, Staff should file a memorandum in this docket indicating that the installations are completed and the warning devices have been put in service.
- (6) With the intention of promoting increased public safety during the pendency of the projects, the Commission urges the appropriate local government agency to make an immediate assessment of interim physical improvements, which would enhance driver awareness at the crossings. The Commission

may provide assistance in funding improvements, such as rumble strips, illumination, signs, or other safety enhancements for the projects. Applications for such funding should be made to the Commission's Transportation Department, Rail 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 project locations. However, the local government agency should not initiate any improvements until a contract has been executed.

It is, therefore,

ORDERED, That, by June 30, 2012, W&LE and NS each file a notice that it has initiated with AEP, OE, or any other applicable utility, the process to ensure that electric service will be available at the involved grade crossings as set forth in finding 3. It is, further,

ORDERED, That W&LE and NS follow the detailed instructions as outlined in the ORDC letters of construction authorization and proceed with and complete the projects by February 25, 2013. It is, further,

ORDERED, That W&LE and NS 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 inspections. It is, further,

ORDERED, That W&LE and NS 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,

ORDERED, That W&LE and NS notify the Commission and ORDC 30 days before the projected date of completion. It is, further,

ORDERED, That, at the time Staff or ORDC makes its final inspection, and if it finds that the installations at the grade crossings are completed and the warning devices have been put in service, Staff will file a memorandum in this docket indicating that the installations are completed and the warning devices have been put in service. It is, further,

ORDERED, That copies of this finding and order be served upon W&LE, NS, ORDC, AEP, OE, Huron County Engineer, Lyme Township Trustees, Chatfield Township Trustees, and any other interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



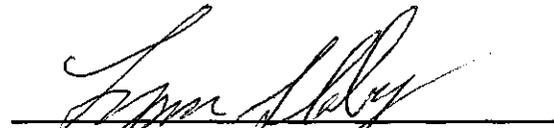
Todd A. Snitchler, Chairman



Steven D. Lesser

Andre T. Porter

Cheryl L. Roberto



Lynn Slaby

SEF/sc

Entered in the Journal

MAY 23 2012



Barcy F. McNeal
Secretary