

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Authorization of)
Wheeling & Lake Erie Railway)
Transportation to Install Active Grade) Case No. 12-2664-RR-FED
Crossing Warning Devices in Stark)
County.)

FINDING AND ORDER

The Commission finds:

- (1) On October 4, 2012, the Commission's Staff (Staff) filed a memorandum stating that the Ohio Rail Development Commission (ORDC) had authorized funding for Wheeling & Lake Erie Railway (W&LE) to install mast-mounted flashing lights and roadway gates at the Allen Avenue SE grade crossing (142-854)), located in Stark County. Staff recommended that the Commission establish a completion deadline of nine months for W&LE to complete the project.
- (2) Upon review, W&LE is 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 railroad 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 shall notify Staff at least five working days before the date work is scheduled to begin at the project so that arrangements can be made for any inspection. In addition, W&LE shall timely notify Staff of any changes in the scope of work, cost overruns, materials, etc., which are not in the approved plan in order to estimate and secure approval before the work is performed.

- (3) Within 30 days of the issuance of this finding and order, W&LE shall file a notice that they have initiated discussions with Ohio Power Company (OPC), 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 has taken with OPC, any other electric utility, and the local highway authority to have electric service available during the construction and cut-in phases of the project. W&LE shall serve a copy of the notice upon OPC, or any other applicable utility. To ensure that the deadline is met, W&LE 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 project should be completed by July 17, 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 should notify Staff and ORDC 30 days before the projected date of completion. At the time the Staff or ORDC makes its final inspection of the devices and finds that the identified installation is completed and the warning devices have been put in service, Staff should file a memorandum in this docket indicating that the installation is completed and that the warning devices have been put in service.
- (6) With the intention of promoting increased public safety during the pendency of the 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 crossing. The Commission may provide assistance in funding improvements, such as rumble strips, illumination, signs, or other safety enhancements for the project. 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 location. However, the local government agency should not initiate any improvements until a contract has been executed.

It is, therefore,

ORDERED, That, by November 16, 2012, W&LE file a notice that they have initiated with DP&L, or any applicable utility, the process to ensure that electric service will be available at the involved grade crossing as set forth in finding 3. It is, further,

ORDERED, That W&LE follow the detailed instructions as outlined in the ORDC letter of construction authorization and proceed with and complete the project by July 17, 2013. It is, further,

ORDERED, That W&LE notify Staff at least five working days before the date work is scheduled to begin at the project site so that arrangements can be made for any inspection. It is, further,

ORDERED, That W&LE 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 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 finds that the installation at the grade crossing is completed and the warning devices have been put in service, Staff will file a memorandum in this docket indicating that the installation is 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, ORDC, city of Canton Engineer, Ohio Power, and any other interested person of record.


THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Spitchler, Chairman


Steven D. Lesser


Andre T. Porter

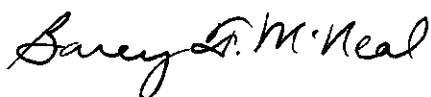

Cheryl L. Roberto


Lynn Slaby

SEF/sc

Entered in the Journal

OCT 17 2012



Barcy F. McNeal
Secretary