

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of a Request :
 for an Exemption by the Ohio :
 Department of Transportation :
 from Stopping for School :
 Buses and Hazardous Materials : Case No.
 Vehicles at the : 13-1226-RR-RCP
 Highway/Railroad Grade :
 Crossing AARDOT No. 503327N :
 Located on State Route 7 :
 (Grant Avenue) in Martins :
 Ferry, Belmont County, Ohio. :

- - -

PROCEEDINGS

Before James M. Lynn, Attorney Examiner, at the
 Martins Ferry Public Library, 20 South 5th Street,
 Martins Ferry, Ohio, called at 11:08 a.m. on Monday,
 July 15, 2013.

- - -

ARMSTRONG & OKEY, INC.
 222 East Town Street, Second Floor
 Columbus, Ohio 43215-4620
 (614) 224-9481 - (800) 223-9481
 Fax - (614) 224-5724

- - -

INDEX

- - -

WITNESSES:

PAGE

SCOTT K. WARNER, P.E.

Direct Testimony by Mr. Warner

5

CHUCK BENNETT

Direct Testimony by Mr. Bennett

10

- - -

ODOT EXHIBITS

ID'D REC'D

1 - e-mail from Shawn Zurfley, 5/2/13

8

12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Monday Morning Session,
July 15, 2013.

- - -

ATTORNEY EXAMINER LYNN: Let's go on the record at this time. The Public Utilities Commission of Ohio has assigned for hearing at this time and place Case No. 13-1226-RR-RCP, In the Matter of a Request by the Ohio Department of Transportation from Stopping for School Buses and Hazardous Materials Vehicles at the Highway/Railroad Grade Crossing Located on State Route 7 or Grant Avenue in Martins Ferry, Belmont County, Ohio.

I'm Jim Lynn. I'm the Attorney Examiner assigned to hear this case. The purpose of today's hearing is to receive public comments regarding the request made by the Ohio Department of Transportation. Your testimony will be considered part of the official record for the case, and it will be reviewed by the Commissioners before they make their final decision.

I'll start by calling the witnesses. There aren't too many to call, but thank you for coming. The court reporter will record your statements, so please speak plainly and clearly so the reporter can actively record what you're saying.

1 Spell your name and state your address and tell the
2 reporter why you think ODOT's request should or
3 should not be granted. I may ask you a few questions
4 after your testimony or during your testimony.

5 I don't see anyone present here from the
6 Commission or from the railroad, so we'll take some
7 comments, then, and, as I said, state your name for
8 the folks who are here.

9 I believe this is Mr. Warner, who
10 actually filed the request on behalf of the Ohio
11 Department of Transportation. I'll go with you
12 first, if you could state your name and who you're
13 employed with, your address, that kind of thing.

14 MR. WARNER: My name is Scott Warner. I
15 work with the Ohio Department of Transportation,
16 District 11. I'm actually a Pavement Engineer and
17 Railroad Coordinator for the district.

18 You want me to spell my name?

19 ATTORNEY EXAMINER LYNN: Yes.

20 MR. WARNER: S-c-o-t-t W-a-r-n-e-r. I'm
21 an engineer, Professional Engineer. Should I give my
22 testimony, too?

23 ATTORNEY EXAMINER LYNN: Yes, and I'll
24 add you can either give sworn or unsworn testimony,
25 although under sworn testimony, the Commission

1 actually gives that greater weight, so if you have no
2 objection to that, I'll swear you in, and then you
3 can continue.

4 MR. WARNER: Okay.

5 SCOTT K. WARNER, P.E.,
6 being first duly sworn, as prescribed by law, was
7 examined and testified as follows:

8 ATTORNEY EXAMINER LYNN: Please
9 continue, Mr. Warner.

10 DIRECT TESTIMONY

11 MR. WARNER: Okay. Yeah, due to some
12 complaints -- actually, I just saw, on the record
13 that I have, the Martins Ferry Police Department
14 actually filed a complaint that some hazmat trucks
15 were not stopping at the highway/railroad -- the
16 grade crossing, so they just suggested that we look
17 into it, as the Department of Transportation, and so
18 we did. I talked it over with my colleagues. One of
19 them is here with me, Joe Parisi, and then Bobby
20 Taylor is our Railroad Services Engineer, and we
21 discussed the situation, looked at the site, and
22 based on the speed limit being 50 miles per hour and
23 this being a four-lane facility, we felt that forcing
24 the hazmat vehicles and the school buses or requiring
25 them to stop at this railroad crossing was actually a

1 hazardous condition in and of itself due to the
2 traffic and the volume of traffic on this facility;
3 so we would like to petition -- you know, we
4 petitioned PUCO to make this an exempt crossing, to
5 not force those vehicles to stop each time they have
6 to go across the grade crossing.

7 ATTORNEY EXAMINER LYNN: You mentioned
8 there was a request filed by what party again? For
9 the exemption, it was -- you had some comments come
10 in?

11 MR. WARNER: Yeah. I got an e-mail that
12 stated -- it was actually from a Rail Inspector that
13 was employed with the PUCO. They must have received
14 it. It says their office received a complaint from
15 the Martins Ferry Police Department, which caused us
16 to then want to look into it.

17 ATTORNEY EXAMINER LYNN: I see. And
18 that was concerning the hazardous materials placarded
19 vehicles not stopping at the crossing?

20 MR. WARNER: Yeah, not stopping, so --
21 of course, they're wanting to enforce the law.

22 ATTORNEY EXAMINER LYNN: Sure.

23 MR. WARNER: So then it's a conflict of
24 do we enforce a law that's unsafe then, so we wanted
25 to make sure that we looked into this exemption

1 issue, and so that's why the Department of
2 Transportation is requesting the exemption be
3 granted.

4 ATTORNEY EXAMINER LYNN: Did you have
5 any comments from the local school district? Because
6 this law applies to the school buses as well.

7 MR. WARNER: No, we have not, not that
8 I'm aware of.

9 ATTORNEY EXAMINER LYNN: Okay. You said
10 you had an e-mail that came in, and that was -- it
11 was apparently a PUCO -- was it a Rail Inspector?

12 MR. WARNER: Yes.

13 ATTORNEY EXAMINER LYNN: I wondered if
14 we could maybe have a copy of that that could be made
15 as evidence and entered into the record and so forth?

16 MR. WARNER: I can give you my copy that
17 I brought with me today.

18 ATTORNEY EXAMINER LYNN: That would be
19 great, sure. Thank you. Do you have anything else,
20 not that you have to have it, but say a written
21 statement you want to submit or anything of that
22 nature?

23 MR. WARNER: I don't, other than the one
24 that I sent to the PUCO Docketing Division. I have
25 that letter. Now, do you want that or --

1 ATTORNEY EXAMINER LYNN: That's already
2 part of the record anyway.

3 MR. WARNER: That's probably going to be
4 about as much as I have.

5 ATTORNEY EXAMINER LYNN: That's fine.
6 And so this e-mail actually came in to you at ODOT, I
7 guess?

8 MR. WARNER: That is correct. Yeah, I
9 kind of -- I met him and talked with that gentleman
10 and met him out on various other railroad crossing
11 sites, so he probably knew I was the Rail Coordinator
12 and just passed that information on to me in case we
13 wanted to do something about it.

14 ATTORNEY EXAMINER LYNN: Thank you. For
15 the record, this PUCO Rail Inspector is Shawn,
16 S-h-a-w-n, Zurfley, Z-u-r-f-l-e-y, and we'll call
17 this ODOT, O-D-O-T, Exhibit 1. This is the e-mail
18 that Scott Warner received from Mr. Zurfley
19 concerning the failure of the placarded hazardous
20 materials vehicles to stop at the grade crossing at
21 issue.

22 Thank you, Mr. Warner.

23 (Witness excused.)

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 ATTORNEY EXAMINER LYNN: Sir, if you

1 could state your name and address, please.

2 MR. BENNETT: Chuck Bennett, 807 Elm
3 Street, Martins Ferry, Ohio, and it's C-h-u-c-k
4 B-e-n-n-e-t-t. I'm here representing the City of
5 Martins Ferry. I'm the Service Director.

6 I talked it over with the mayor, and our
7 thoughts -- as the gentleman from ODOT knows, safety
8 is our biggest worry on Hanover, so we don't have --
9 on 7 and Hanover as it is. We have no objection to
10 this being -- going to an exempt, and speaking for
11 myself, being a former school bus driver who had to
12 stop in that area, I found it to be very dangerous,
13 gentlemen many times swerving at the last minute,
14 not -- running up my back, even with my lights on and
15 everything properly done. I know it was so bad that
16 I would actually go get off on the Kroger exit and
17 come up through town instead of going up through that
18 area, just to stay away from that, what I consider a
19 very dangerous thing to do, so -- we were required by
20 law to do it, so I just felt it was the safest thing
21 for myself and the students, so I just quit going
22 that way.

23 ATTORNEY EXAMINER LYNN: And you
24 mentioned before we started the testimony here that
25 when you were a school bus driver, that you would

1 sometimes turn on your flashing lights well in
2 advance of the crossing --

3 MR. BENNETT: Oh, well in advance.

4 ATTORNEY EXAMINER LYNN: -- slow down
5 and so forth, and yet you still had vehicles --

6 (Discussion off the record.)

7 ATTORNEY EXAMINER LYNN: My neglect.
8 I'll swear you in, and if you could just make your
9 comments again.

10 CHUCK BENNETT,
11 being first duly sworn, as prescribed by law, was
12 examined and testified as follows:

13 ATTORNEY EXAMINER LYNN: If you could
14 repeat those again.

15 MR. BENNETT: Yes.

16 ATTORNEY EXAMINER LYNN: You are with
17 the city and --

18 DIRECT TESTIMONY

19 MR. BENNETT: Yes, City Service
20 Director, and we have no objections to having, you
21 know, the railroad -- or this railroad crossing being
22 exempt due to safety issues on Hanover Street, and
23 myself being a former school bus driver, many times
24 it was a scary situation, almost run over by vehicles
25 on several different occasions, and I just -- I would

1 start getting off the Kroger exit to come north and
2 come up through town, which is what I felt to be
3 safer for myself and for the students.

4 ATTORNEY EXAMINER LYNN: And then going
5 back to what you were saying about even when you were
6 a driver, you would often put on the flashers for the
7 school bus well in advance, slow down the bus and so
8 forth, and you still had drivers, well, perhaps
9 barely avoiding a collision with you?

10 MR. BENNETT: Yes. Several times that
11 happened, and blowing the horn at me because they
12 didn't realize that was the law, so we had to stop.

13 ATTORNEY EXAMINER LYNN: Thank you. Is
14 there any sort of written statement you want to file,
15 not that you have to have one?

16 MR. BENNETT: No. I didn't have
17 anything written, no.

18 (Witness excused.)

19 ATTORNEY EXAMINER LYNN: Okay. Thank
20 you, everyone, for coming.

21 We'll adjourn for now, wait about
22 another 10 or 15 minutes, and if no one else shows
23 up, we'll call the hearing to a close, but there may
24 be some folks show up. Thank you. This is off the
25 record for the time being.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Recess taken.)

ATTORNEY EXAMINER LYNN: We'll go back on the record. We waited for about 10 or 15 minutes. No one else has appeared, and all witnesses who were -- all the parties who were present have already stated what they needed to say, and they were sworn in before their statements and so forth.

In that case, are there any further comments that need to be made by you, Mr. Warner?

MR. WARNER: No.

ATTORNEY EXAMINER LYNN: Thank you. In that case, thank you for coming, and we'll adjourn the hearing.

(EXHIBIT ADMITTED INTO EVIDENCE.)

(Thereupon, the hearing was concluded at 11:28 a.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I do hereby certify that the foregoing
is a true and correct transcript of the proceedings
taken by me in this matter on Monday, July 15, 2013,
and carefully compared with my original stenographic
notes.

Valerie J. Sloas, Registered
Professional Reporter and
Notary Public in and for
the State of Ohio.

My commission expires June 8, 2016.
(VJS-72829)

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

7/29/2013 12:44:29 PM

in

Case No(s). 13-1226-RR-RCP

Summary: Transcript in the matter of the Ohio Department of Transportation hearing held on 07/15/13 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Sloas, Valerie J. Mrs.