

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Authorization of)
Norfolk Southern Railway and the)
Indiana & Ohio Railway to Install) Case No. 13-2137-RR-FED
Active Grade Crossing Warning Devices)
in Crawford and Clinton Counties.)

FINDING AND ORDER

The Commission finds:

- (1) On October 29, 2013, Commission Staff (Staff) filed a memorandum stating that the Ohio Rail Development Commission (ORDC) has authorized funding for Norfolk Southern Railway (NS) and the Indiana & Ohio Railway (IORY) to install mast-mounted flashing lights and roadway gates at the following locations:

NS - Crawford County, Liberty Township, Township Road (TR) 128/Carrell Road, DOT# 481573J

IORY - Clinton County, Green Township, TR 285/Noble Road/Phillips Road, DOT# 151282J

Staff recommends that the Commission establish a completion deadline of nine months for NS and IORY to complete the projects.

- (2) Upon review, NS and IORY are hereby authorized to acquire project materials and to commence construction as detailed in the letter of construction authorization. It is expected that all work necessary for Federal Highway Administration (FHWA) 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 (MUTCD), including minor roadway work if necessary. NS and IORY 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 inspection. In addition,

NS and IORY shall timely notify Staff of any changes in the scope of work, cost overruns, materials, etc., which are not in the approved plans in order to estimate and secure approval before the work is performed.

- (3) Within 30 days of the issuance of this finding and order, NS and IORY shall file a notice that they have initiated discussions with American Electric Power (AEP), Dayton Power and Light Company (DPL), 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 NS and IORY have taken with AEP, DPL, any other electric utility, and the local highway authority to have electric service available during the construction and cut-in phases of the project. NS and IORY shall serve a copy of the notice upon AEP, DPL, or any other applicable utility. To ensure that the deadline is met, NS and IORY 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 August 13, 2014.
- (5) It is expected that all work necessary for FHWA acceptance of the warning devices will be completed by the in-service due date and that the railroad will be responsible for this work. This work includes, but is not limited to, any ancillary work to make the warning devices function as designed and visible to the roadway user, and MUTCD compliance, including minor roadway work if necessary.
- (6) 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, NS and IORY should notify Staff and ORDC 30 days before the projected date of completion. At the time Staff or ORDC makes its final inspection of the devices and 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 that the warning devices have been put in service.

- (7) 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 crossings. 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 locations. However, the local government agency should not initiate any improvements until a contract has been executed.

It is, therefore,

ORDERED, That, by December 13, 2013, NS and IORY file a notice that they have initiated with AEP, DPL or any 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 NS and IORY follow the detailed instructions as outlined in the ORDC letter of construction authorization and proceed with and complete the project by August 13, 2014. It is, further,

ORDERED, That NS and IORY 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 inspection. It is, further,

ORDERED, That NS and IORY 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,

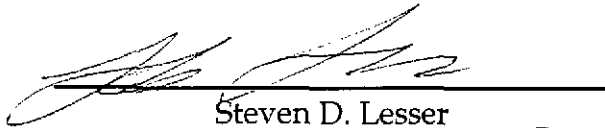
ORDERED, That NS and IORY notify the Commission and ORDC 30 days before the projected date of completion. It is, further,

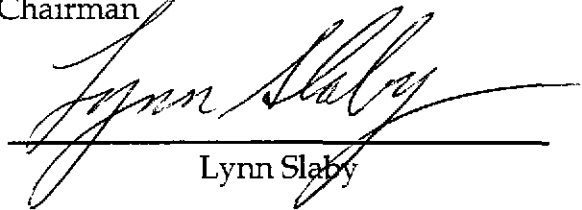
ORDERED, That, at the time Staff or ORDC makes its final inspection and finds that the installations at the grade crossings are completed and the warning devices have been put in service, Staff will file a memorandum in this docket indicating that the installations are completed and the warning devices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


ORDERED, That copies of this finding and order be served upon NS, IORY, Genessee and Wyoming System, ORDC, Green Township Trustees, Liberty Township Trustees, AEP, DPL, and any other interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Steven D. Lesser


Lynn Slaby



M. Beth Trombold


Asim Z. Haque

JML/sc

Entered in the Journal

NOV 13 2013


Barcy F. McNeal

Barcy F. McNeal
Secretary