

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of a Request for Wheeling)
& Lake Erie Railway to Install Active)
Grade Crossing Warning Devices in the)
City of Medina, at Guilford Boulevard) Case No. 14-275-RR-STP
(DOT#002-090H), in Medina County,)
Ohio.)

FINDING AND ORDER

The Commission finds:

- (1) Pursuant to R.C. 4905.04, the Commission has statutory authority to regulate and promote the welfare and safety of railroad employees and the traveling public.
- (2) Pursuant to R.C. 4907.471, the Commission is responsible for evaluating public grade crossings to determine the need for installing active warning devices and apportioning the cost thereof.
- (3) R.C. 4907.471 also provides that the Commission is responsible for the administration and implementation of the State Grade Crossing Protection Fund, established to help defray a portion of the public's share of the cost of upgrading warning devices at Ohio's highway-railroad grade crossings.
- (4) Pursuant to Ohio Adm.Code 4901-1-30, any two or more parties may enter into a written stipulation concerning issues of fact.
- (5) On February 20, 2014, Staff filed a subsidy stipulation (stipulation), which it had entered into with the Wheeling & Lake Erie Railway (WLE) and the city of Medina (LHA) in Medina County, Ohio. The stipulation states that the parties have entered into an agreement to install active grade crossing warning devices in the city of Medina, at Guilford

Boulevard (DOT#002-090H). Pursuant to the stipulation, WLE will be responsible for funding up to 10 percent of the cost of the project, plus 100 percent of maintenance; LHA is responsible for 35 percent of 90 percent of the project's cost; and the Commission is responsible for 65 percent of 90 percent of the project's cost.

- (6) Staff recommends that the Commission approve the stipulation and that WLE file site plans and cost estimates within 90 days of the Commission's approval. Staff also recommends that WLE complete the project within one year after the Commission's approval of the stipulation.
- (7) Upon review of the stipulation, the Commission finds that the terms and conditions therein insure the timely protection of the public at the crossing and provides a reasonable basis for apportioning costs thereof. Therefore, the stipulation should be approved and, accordingly, the costs of the project should be allocated as set forth therein.
- (8) By June 10, 2014, WLE should submit to Staff the site plans and cost estimates for the project. Within seven days thereafter, WLE should file a letter in this docket advising that the site plans and cost estimates have been submitted to the Commission. Following submission and approval of the site plans and cost estimates, unless otherwise directed, WLE is hereby authorized to acquire project materials and to commence work as detailed in the letter of construction authorization. WLE should 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 inspections. In addition, WLE should notify Staff of any changes in the scope of work, cost overruns, materials, etc., which are not in the approved plan and estimate, and secure approval before the work is performed. WLE should complete the project on or before March 12, 2015. The Commission will issue no further construction authorization in this matter.

- (9) Within 120 days of the issuance of this Finding and Order, WLE shall file a notice in the docket that it has initiated discussions with Ohio Edison Company (Ohio Edison) and any other applicable utility with regard to the grade crossing project 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 that WLE has taken with Ohio Edison and any other applicable electric utility, the government entity, and the local highway authority to have electric service available during the construction and cut-in phases of the project. WLE shall serve a copy of the docketed notice upon Ohio Edison and any other applicable utility. To ensure that the deadline is met, Ohio Edison shall timely inform the Commission in writing of any issues regarding the availability of electric service.
- (10) In order to expedite the activation of the warning devices, the Commission no longer requires railroad companies to delay such activation pending the final inspection by Staff. However, the railroad should notify Staff 30 days before the projected date of completion. At the time Staff makes its final inspection of the devices and finds that the 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 the warning devices have been put in service.
- (11) With the intention of promoting increased public safety during the pendency of this 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 project crossing. The Commission may provide assistance in funding improvements such as rumble strips, illumination, signs, or other safety enhancements at the project location. Applications for such funding should be made to the Commission's Transportation Department, Railroad

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 crossing. However, the local government agency should not initiate any improvements until a contract has been executed.

It is, therefore,

ORDERED, That the stipulation be adopted and approved. It is, further,

ORDERED, That, by June 10, 2014, WLE submit to the Commission's Railroad Division site plans and cost estimates for the project, and by June 17, 2014, file a letter in this docket advising that site plans and cost estimates have been submitted to the Commission. It is, further,

ORDERED, That, following approval of the site plans and cost estimates, WLE proceed with and complete the project on or before March 12, 2015. It is, further,

ORDERED, That WLE notify Staff of any changes in the scope of work, cost overruns, materials, etc., which are not in the approved plans and estimates, notify the 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 inspections, and notify the Commission 30 days before the projected date of completion. It is, further,


ORDERED, That, by July 10, 2014, WLE file a notice that it has initiated with Ohio Edison, and any other applicable utility, the process to ensure that electric service will be available at the involved grade crossings as set forth in finding (9). It is, further,

ORDERED, That WLE follow the detailed instructions as outlined in the letter of construction authorization. It is, further,

ORDERED, That, at the time Staff makes its final inspection and finds that the installation is completed and the warning devices have been put in service, Staff 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 a copy of this Finding and Order be served upon WLE, the City Engineer for the City of Medina, Ohio Edison, and all interested persons of record.

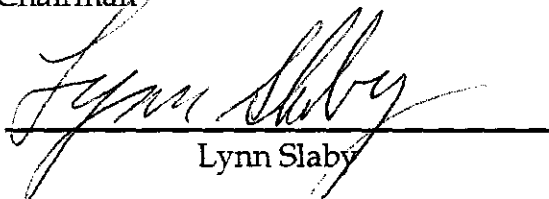
THE PUBLIC UTILITIES COMMISSION OF OHIO



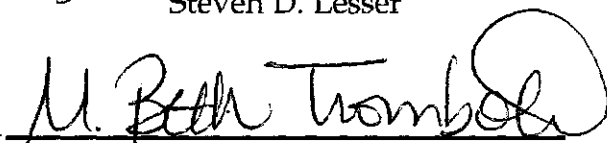
Todd A. Snitchler, Chairman



Steven D. Lesser



Lynn Slaby



M. Beth Trombold

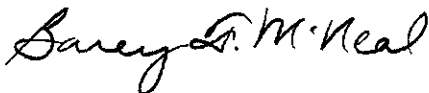


Asim Z. Haque

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Entered in the Journal

MAR 12 2014



Barcy F. McNeal
Secretary