

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Authorization )  
of Norfolk Southern Railway to Install ) Case No. 14-489-RR-FED  
Active Grade Crossing Warning Devices )  
in Butler and Hamilton Counties. )

FINDING AND ORDER

The Commission finds:

- (1) R.C. 4905.04 provides that the Commission has statutory authority to regulate and promote the welfare and safety of railroad employees and the traveling public.
- (2) R.C. 4907.471 provides that the Commission shall survey all at grade crossings and establish a priority list to determine which grade crossings are in need of additional protective devices.
- (3) R.C. 4907.476 provides that where the Ohio Department of Transportation enters into contracts and agreements for grade crossing protective device projects, the Commission shall work with and through the department.
- (4) On March 27, 2014, Staff filed a memorandum stating that the Ohio Rail Development Commission (ORDC) has authorized funding for Norfolk Southern Railway (NS) to install mast-mounted flashing lights and gates at the following grade crossings:

Butler County, near Collinsville, Hamilton-Eaton  
Road/County Road 180, DOT# 525-190H;

Hamilton County, Village of St. Bernard, Beech Street,  
DOT# 524-746U;

Hamilton County, Village of Lockland, Smalley Road,  
DOT# 524-719X;

Hamilton County, Village of Lockland, Davis Street,  
DOT# 524-724U;

Hamilton County, Village of St. Bernard, Murray Road,  
DOT# 524-742S.

Staff adds that the aforementioned Butler County crossing was surveyed because of its hazard ranking on May 28, 2013, and was found to warrant the upgrade, while the four Hamilton County crossings noted above are part of the ongoing CJ Corridor Project. Staff recommends that because the plans and estimates for the projects have been submitted and approved, the Commission establish a deadline of nine months for NS to complete the projects. The projects will be paid for with federal funds and are actual cost.

- (5) Upon review, NS is hereby authorized to acquire project materials and to commence construction as detailed in the letter of construction authorization. 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 inspection. In addition, NS 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.
- (6) Within 30 days of the issuance of this Finding and Order, NS shall file a notice that it has initiated discussions with Duke Energy Ohio, Inc. (Duke), the Butler Rural Electric Cooperative (BREC), 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 has taken with Duke, BREC, or any other electric utility, and the local highway authority to have electric service available during the construction and cut-in phases of the projects. NS shall serve a copy of the notice upon Duke,

BREC, or any other applicable utility. To ensure that the deadline is met, Duke, BREC, or any other applicable utility shall timely inform the Commission in writing of any issues regarding the availability of electric service.

- (7) The Commission will issue no further construction authorization. Further, the grade crossing improvement projects should be completed by January 23, 2015.
- (8) 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. 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 Manual of Uniform Traffic Control Devices compliance, including minor roadway work if necessary.
- (9) 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 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 complete and the warning devices have been put in service, Staff should file a memorandum in this docket indicating that the installations are complete and that the warning devices have been put in service.
- (10) 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 May 23, 2014, NS shall file a notice that it has initiated with Duke, BREC, or any applicable utility, the process to ensure that electric service will be available at the involved grade crossings as set forth in finding (6). It is, further,

ORDERED, That NS follow the detailed instructions as outlined in the ORDC letter of construction authorization and proceed with and complete the projects by January 23, 2015. It is, further,

ORDERED, That 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 inspection. It is, further,

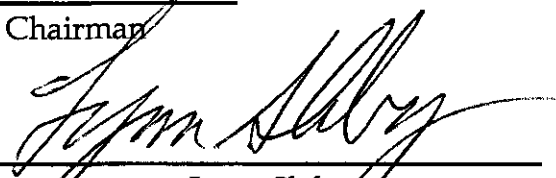
ORDERED, That NS timely notify Staff of any changes in the scope of work, cost overruns, materials, etc., which are not in the approved plans and estimates, and shall secure approval before the work is performed. It is, further,

ORDERED, That 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 finds that the installations at the grade crossings are complete and the warning devices have been put in service, Staff will file a memorandum in this docket indicating that the installations are complete and the warning devices have been put in service. It is, further,


ORDERED, That copies of this Finding and Order be served upon NS, ORDC, Butler County Engineer's Office, Village of St. Bernard, Village of Lockland, Duke, BREC, and any other interested person of record.

## THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Thomas W. Johnson, Chairman  
Steven D. Lesser  
Lynn Slaby  
M. Beth Trombold  
Asim Z. Haque

JML/sc

Entered in the Journal  
**APR 23 2014**



Barcy F. McNeal  
Secretary