

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Authorization of )  
Norfolk Southern Railway, CSX )  
Transportation, and the Wheeling & )  
Lake Erie Railway to Upgrade the ) Case No. 14-1817-RR-FED  
Grade Crossing Warning Devices in )  
Lawrence, Union, Crawford, and )  
Huron 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 October 14, 2014, Staff filed a memorandum stating that the Ohio Rail Development Commission (ORDC) has authorized funding for Norfolk Southern Railway (NS), CSX Transportation (CSX), and the Wheeling & Lake Erie Railway (WLE) to upgrade the warning devices at the following locations:

NS: Lawrence County, village of South Point, N. Kenova Street, DOT# 473405H, as part of the Heartland Corridor project, new LED lights and new gates mechanisms, plus upgraded circuitry, cost \$160,657.00.

CSX: Union County, Shirk Road/County Road 224, near Marysville, DOT# 513815U, surveyed due to hazard

ranking, will be upgraded to flashing lights and gates, cost \$165,343.00.

WLE: Crawford County, Chatfield Township, Schwemly Road/Township Road 41, DOT# 001938R, surveyed due to hazard ranking, will be upgraded to flashing lights and gates, cost \$257,496.79

WLE: Huron County, city of Norwalk, Newton Street/Jefferson Street, DOT# 473638E, surveyed due to hazard ranking, will be upgraded to flashing lights and gates, cost \$311,718.47.

WLE: Huron County, Ridgefield Township, Williams Road/Township Road 27, DOT# 473650L, surveyed due to hazard ranking, will be upgraded to flashing lights and gates, cost \$224,023.52.

Staff recommends a deadline of nine months to complete the projects. Staff adds that the projects will be paid for with federal funds and are actual cost.

- (5) Upon review, NS, CSX, and WLE are hereby authorized to acquire project materials and to commence construction as detailed in the letter of construction authorization. NS, CSX, and WLE 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, CSX, and WLE 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, CSX, and WLE shall file notice that they have initiated discussions with Ohio Edison Company (Ohio Edison), American Electric Power (AEP), North Central Electric Cooperative Inc. (NCE), 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, CSX, and WLE have taken with Ohio Edison, AEP, NCE, 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, CSX, and WLE shall serve a copy of the notice upon Ohio Edison, AEP, NCE, or any other applicable utility. To ensure that the deadline is met, Ohio Edison, AEP, NCE, 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 July 29, 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 railroads 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, CSX, and WLE 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 any proposal. 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 November 29, 2014, NS, CSX, and WLE file notice that they have initiated with Ohio Edison, AEP, NCE, 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, CSX, and WLE follow the detailed instructions as outlined in the ORDC letter of construction authorization and proceed with and complete the projects by July 29, 2015. It is, further,

ORDERED, That NS, CSX, and WLE 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,

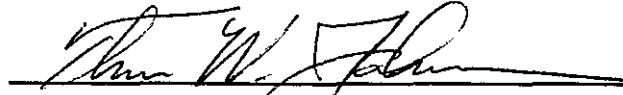
ORDERED, That NS, CSX, and WLE timely notify Staff of any changes in the scope of work, cost overruns, materials, etc., which are not in the approved plans and estimates, and shall secure approval before the work is performed. It is, further,

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

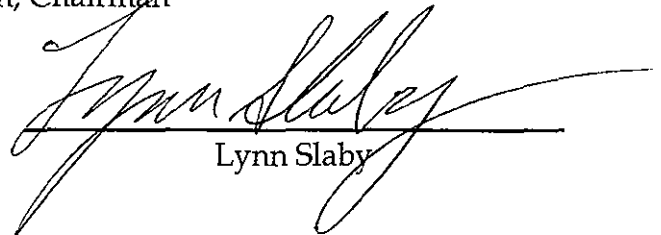
ORDERED, That, at the time Staff or ORDC makes its final inspection and finds that the installations at the grade crossings are complete and the warning devices have been put in service, Staff will file a memorandum in this docket indicating that the installations are complete and the warning devices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

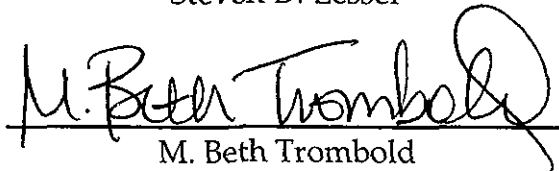
ORDERED, That copies of this Finding and Order be served upon ORDC, NS, CSX, WLE, Ohio Edison Company, AEP, NCE, Mayor of the village of South Point, Union County Engineer's Office, Chatfield Township Trustees, city of Norwalk, Ridgfield Township Trustees, and any other interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Thomas W. Johnson, Chairman

  
Steven D. Lesser

  
Lynn Slaby

  
M. Beth Trombold

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Asim Z. Haque

JML/sc

Entered in the Journal

**OCT 29 2014**

  
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Barcy F. McNeal  
Secretary

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Secretary