

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REQUEST FOR AN EXEMPTION BY THE MAHONING COUNTY ENGINEER FROM STOPPING FOR SCHOOL BUSES AND HAZARDOUS MATERIALS VEHICLES AT THE PALMYRA ROAD/COUNTY ROAD 136 CROSSING (DOT#501481H), LOCATED IN MAHONING COUNTY, OHIO.

CASE No. 16-1216-RR-RCP

IN THE MATTER OF THE REQUEST FOR AN EXEMPTION BY THE MAHONING COUNTY ENGINEER FROM STOPPING FOR SCHOOL BUSES AND HAZARDOUS MATERIALS VEHICLES AT THE SOUTH DUCK CREEK ROAD/COUNTY ROAD 53 CROSSING (DOT#502475E) LOCATED IN MAHONING COUNTY, OHIO.

CASE No. 16-1217-RR-RCP

IN THE MATTER OF THE REQUEST FOR AN EXEMPTION BY THE JACKSON TOWNSHIP TRUSTEES FROM STOPPING FOR SCHOOL BUSES AND HAZARDOUS MATERIALS VEHICLES AT THE BLOTT ROAD/TOWNSHIP ROAD 160 CROSSING (DOT#544985Y) LOCATED IN MAHONING COUNTY, OHIO.

CASE No. 16-1365-RR-RCP

OPINION AND ORDER

Entered in the Journal on October 26, 2016

I. SUMMARY

{¶ 1} The Commission grants the requests for exemption from stopping for school buses and hazardous materials vehicles at the Palmyra Road/County Road 136 (DOT#502481H), South Duck Creek Road/County Road 53 (DOT#502475E), and the Blott Road/Township Road 160 (DOT#544985Y) grade crossings located in Mahoning County, Ohio.

II. FACTS AND PROCEDURAL BACKGROUND

{¶ 2} On May 31, 2016, Patrick Ginnetti, Engineer for Mahoning County, the local highway authority (LHA), filed letters pursuant to R.C. 4511.63, requesting exemptions for school buses and motor vehicles carrying certain hazardous materials from stopping at the Palmyra Road/County Road 136 (Palmyra Road) (DOT#502481H) and South Duck Creek Road/County Road 53 (South Duck Creek Road) (DOT#502475E) grade crossings in Mahoning County. Mr. Ginnetti noted that both roads are two lanes, with a speed limit of 40 miles per hour on Palmyra Road and no posted speed limit on South Duck Creek Road. He added that the tracks at both crossings have been paved over, and he emphasized that making the crossings exempt will reduce safety hazards for school buses and vehicles transporting hazardous materials by eliminating the need to stop.

{¶ 3} On June 13, 2016, Alan Hemphill, Chairman of the Jackson Township Trustees, the LHA, filed a letter pursuant to R.C. 4511.63, requesting an exemption for school buses and motor vehicles carrying certain hazardous materials from stopping at the Blott Road/Township Road 160 (Blott Road) (DOT#544985Y) crossing in Jackson Township, which is in Mahoning County. Mr. Hemphill explained that Blott Road is two lanes, with a speed limit of 40 miles per hour, and he asserted that exempting the crossing will improve safety for school buses and vehicles carrying hazardous materials, because the need to stop will be eliminated. He similarly noted that the tracks at the crossing have been paved over.

{¶ 4} By Entry issued June 14, 2016, the requests for exemptions filed by Mahoning County and Jackson Township were consolidated and scheduled for a local public hearing on July 14, 2016. The hearing was held as scheduled at the Jackson Township Hall in North Jackson, Ohio. Notice of the hearing was published in the Youngstown Vindicator, a newspaper of general circulation in Mahoning County, Ohio, and in press releases issued by the Commission. The June 14, 2016 Entry also directed Staff to file reports of its investigations on the exemption requests.

{¶ 5} On June 30, 2016, Staff filed investigative reports in each of the cases, recommending that the requested exemptions be granted.

III. LAW

{¶ 6} The Commission's authority to grant an exemption from stopping at railroad grade crossings, applicable to school buses and vehicles placarded for hazardous materials, is found in R.C. 4511.63, which provides, in part:

Except as provided in division (B) of this section, the operator of any bus, any school vehicle, or any vehicle transporting a material or materials required to be placarded under 49 Code of Federal Regulations (C.F.R.) Parts 100-185, before crossing at grade any track of a railroad, shall stop the vehicle.

Division (B) of Section 4511.63, Revised Code, provides that the section does not apply at railroad grade crossings when the Commission has authorized and approved an exempt crossing pursuant to the division.

IV. SUMMARY OF THE EVIDENCE

{¶ 7} In its investigative reports, Staff states that it was informed by Norfolk Southern Railway Company (NS) that the rail line that travels through these three grade crossings is out of service, and therefore, there is no rail traffic over any of the grade crossings, which have been paved over. Staff adds that all three grade crossings are used by school buses and numerous hazardous materials vehicles. Staff recommends granting the exemption requests, which it found would reduce the possibility of rear-end collisions that might occur between school buses and hazardous materials vehicles that stop at the crossings and drivers of motor vehicles not expecting those vehicles to stop at the crossings.

{¶ 8} At the July 14, 2016 hearing, three witnesses testified in support of the exemption requests. No witnesses testified in opposition to the requests. Michael Stipetich, on behalf of the Mahoning County Engineer, explained that the tracks at the Palmyra Road and South Duck Creek Road crossings are paved over and, according to NS officials, are inactive (Tr. at 5-6). He added South Duck Creek Road has a speed limit of 55 miles per hour, while Palmyra Road has a speed limit of 40 miles per hour. Mr. Stipetich contends that safety is compromised when school buses or hazardous materials vehicles stop at the crossings, because inattentive drivers following such vehicles may cause a rear-end collision. (Tr. at 5-6). He stated that the Mahoning County Engineer filed the request for exemption on behalf of Jackson-Milton School District officials, who also support the exemption (Tr. at 5).

{¶ 9} Thomas Frost, on behalf of the Jackson Township Trustees, testified that the tracks at the Blott Road crossing are paved over. He asserted that, when school buses and hazardous materials vehicles stop at the crossing, there is a potential for accidents, because the road is "very straight" and some drivers exceed the 35 miles per hour speed limit. (Tr. at 8-9.) Like Mr. Stipetich, Mr. Frost filed the exemption request on behalf of the Jackson-Milton School District (Tr. at 7).

{¶ 10} Patty Lloyd, on behalf of the transportation supervisor of the Jackson-Milton School District, expressed concern for the potential danger caused by inattentive drivers not noticing that school buses stop at the three grade crossings. She added that when she approaches the South Duck Creek Road crossing, she stops her vehicle, but many drivers do not stop, and instead "fly by me." (Tr. at 10-11.)

V. COMMISSION CONCLUSION

{¶ 11} R.C. 4511.63 provides that, after considering any comments or other information received, the Commission may approve or reject an application for an exemption and may establish conditions for the exempt crossing designation. R.C.

4511.63(B)(2) also provides that an exempt crossing becomes effective only when appropriate signs giving notice of the exempt designation are erected at the crossing, as ordered by the Commission, and any other conditions ordered by the Commission are satisfied.

{¶ 12} After consideration of the evidence, we find that, pursuant to R.C. 4511.63, the requests for an exemption are warranted at the Palmyra Road, South Duck Creek Road, and Blott Road crossings. The evidence indicates that there are currently no trains operating on the tracks at these crossings and that the tracks have been paved over. Therefore, traffic is unnecessarily delayed when school buses or vehicles transporting hazardous materials stop at the crossings. (Tr. at 5-6, 8.) Furthermore, some drivers of motor vehicles do not expect school buses or hazardous materials vehicles to stop at the crossings, which increases the likelihood for motor vehicle accidents (Tr. at 5-6, 7-8, 10).

{¶ 13} Upon considering all of the evidence, the Commission finds it reasonable to grant, pursuant to R.C. 4511.63, the requests to exempt school buses and certain hazardous materials vehicles from stopping at each of the crossings, as would ordinarily be required by 49 C.F.R. 392.10. We agree that, because there are no rail movements at the crossings, there is no risk of a train/vehicle collision. Furthermore, the exemption will decrease the potential for accidents caused by inattentive drivers not realizing that a school bus or placarded vehicle has stopped in front of them. Notwithstanding our granting of these exemption requests, all vehicles, including those covered by the exemption, must fully comply with all other state of Ohio motor vehicle safety rules and obey all existing warning devices whenever a train is operating over these crossings.

{¶ 14} Accordingly, Mahoning County and Jackson Township, as the LHAs, should place signs marked "Exempt" that are in conformance with the Ohio Manual of Uniform Traffic Control Devices at each crossing and at other appropriate locations in advance of the crossings that have been granted exemptions in accordance with this Opinion and Order.

{¶ 15} Further, R.C. 4511.63 provides that the Commission may rescind any exempt crossing designation made under this section if it finds that a condition at the exempt crossing has changed to such an extent that the continuation of the exempt crossing designation compromises public safety. Thus, if NS or any other railroad files a petition to rescind the granted exemptions, we shall reconsider such petitions according to R.C. 4511.63. We note that the granting of these exemption requests has no impact on the railroad, since NS is not currently conducting any operations effecting the crossings under consideration in these proceedings. Nevertheless, NS should provide advance notice to the Commission, Mahoning County, Jackson Township, and the transportation director of the Jackson-Milton Local School District, in the event that NS intends to resume rail operations at these crossings, which would impact school bus or hazard material transportation activities. In the event rail operations resume at these crossings, the Commission will reevaluate these exemptions.

VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 16} On May 31, 2016, Patrick Ginnetti, Engineer for Mahoning County, filed letters pursuant to R.C. 4511.63 in Case Nos. 16-1216-RR-RCP and 16-1217-RR-RCP, requesting exemptions for school buses and motor vehicles carrying certain hazardous materials from stopping at the Palmyra Road and South Duck Creek Road crossings, owned by the NS within Mahoning County.

{¶ 17} On June 13, 2016, Alan Hemphill, Chairman of the Jackson Township Trustees, filed a letter pursuant to R.C. 4511.63 in Case No. 16-1365-RR-RCP, requesting an exemption for school buses and motor vehicles carrying certain hazardous materials from stopping at the Blott Road crossing, owned by NS within Mahoning County.

{¶ 18} By Entry issued June 14, 2016, Case Nos. 16-1216-RR-RCP, 16-1217-RR-RCP, and 16-1218-RR-RCP were consolidated for a July 14, 2016 hearing in North Jackson, Ohio.

{¶ 19} Notice of the hearing was duly published in the Youngtown Vindicator.

{¶ 20} On June 30, 2016, Staff filed its investigative reports regarding the exemption requests.

{¶ 21} A hearing was held on July 14, 2016, in North Jackson, Ohio.

{¶ 22} The requests for an exemption from stopping for school buses, as well as certain commercial motor vehicles, as specified in 49 C.F.R. 392.10, are warranted based upon the evidence presented at the hearing.

VII. ORDER

{¶ 23} It is, therefore,

{¶ 24} ORDERED, That exemptions, pursuant to R.C. 4511.63, be granted to allow school buses and certain commercial motor vehicles, as specified in 49 C.F.R. 392.10, to proceed without stopping at the Palmyra Road/County Road 136 (DOT#502481H), South Duck Creek Road/County Road 53 (DOT#502475E), and the Blott Road/Township Road 160 (DOT#544985Y) grade crossings located in Mahoning County, Ohio. It is, further,

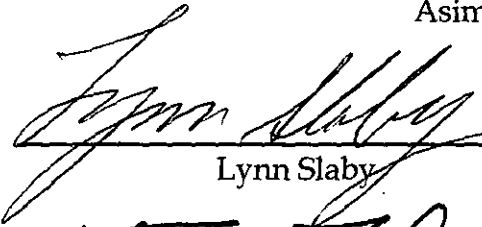
{¶ 25} ORDERED, That Mahoning County and Jackson Township, as the LHAs, place signs marked "Exempt" that are in conformance with the Ohio Manual of Uniform Traffic Control Devices at the Palmyra Road/County Road 136 (DOT#502481H), South Duck Creek Road/County Road 53 (DOT#502475E), and the Blott Road/Township Road 160 (DOT#544985Y) grade crossings located in Mahoning County, Ohio, and at other appropriate locations in advance of the crossings that have been granted exemptions in accordance with this Opinion and Order. It is, further,

{¶ 26} ORDERED, That a copy of this Opinion and Order be served on NS, Mahoning County Engineer, Jackson Township Trustees, Transportation Director for Jackson-Milton Local Schools, and all other persons of record.

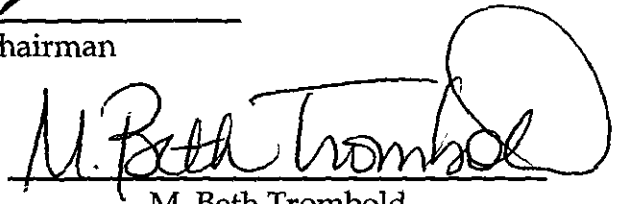
THE PUBLIC UTILITIES COMMISSION OF OHIO



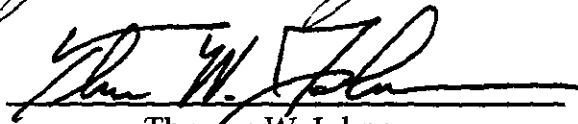
Asim Z. Haque, Chairman



Lynn Slaby



M. Beth Trombold



Thomas W. Johnson



M. Howard Petricoff

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OCT 26 2018



Barcy F. McNeal
Secretary