

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REQUEST FOR AN
EXEMPTION BY THE CITY OF COSHOCTON
FOR SCHOOL BUSES AND HAZARDOUS
MATERIALS VEHICLES FROM STOPPING AT
NINE GRADE CROSSINGS IN COSHOCTON.

CASE NO. 16-1561-RR-RCP

OPINION AND ORDER

Entered in the Journal on December 21, 2016

I. SUMMARY

{¶ 1} The Commission grants the request by the city of Coshocton that school buses and vehicles carrying certain hazardous materials be exempt from stopping at the Sleepy Hollow Drive (DOT#474191W), Fairy Falls Drive (DOT#474192D), Denman Avenue (DOT#474193K), Kenilworth Avenue (DOT#474194S), Hamilton Avenue (DOT#474196F), Walnut Street (DOT#474198U), and East Main Street (DOT#474199B) grade crossings, and denies the exemption request at the Cambridge Road (DOT#474195Y) and Chestnut Street (DOT#474200T) crossings because the tracks have been removed.

II. FACTS AND PROCEDURAL BACKGROUND

{¶ 2} On July 12, 2016, Jerry Stenner, Safety Service Director for the city of Coshocton, the local highway authority (LHA), filed a letter requesting that school buses and motor vehicles carrying certain hazardous materials be exempt from stopping at nine Ohio Central Railroad (OHCR) grade crossings in Coshocton. The crossings are located at Sleepy Hollow Drive (DOT#474191W), Fairy Falls Drive (DOT#474192D), Denman Avenue (DOT#474193K), Kenilworth Avenue (DOT#474194S), Cambridge Road (DOT#474195Y), Hamilton Avenue (DOT#474196F), Walnut Street (DOT#474198U), East Main Street (DOT#474199B), and Chestnut Street (DOT#474200T). Mr. Stenner explained that each of these crossings is along an unused stretch of tracks passing through Coshocton, and he

added that the tracks have already been removed at the Cambridge Road and Chestnut Street crossings.

{¶ 3} By Entry issued August 5, 2016, the exemption request was scheduled for a hearing on August 26, 2016, which was conducted at Coshocton City Hall. Notice of the hearing was duly published in the Coshocton Tribune and the Coshocton Beacon Today, newspapers of general circulation in Coshocton County, Ohio, and by press releases issued by the Commission.

{¶ 4} On August 22, 2016, Staff filed an investigative report, recommending that, with the exception of the Cambridge Road (DOT#474195Y) and Chestnut Street (DOT#474200T) crossings, the exemption request be approved.

III. LAW

{¶ 5} 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

{¶ 6} In its investigative report, Staff explained that there is no need for an exemption at the Cambridge Road (DOT#474195Y) and Chestnut Street (DOT#474200T) crossings, because the rails have been removed from the roadway, the crossing surface paved over, and the warning devices removed. Staff recommends approval of the exemption at the Sleepy Hollow Drive (DOT#474191W), Fairy Falls Drive (DOT#474192D), Denman Avenue (DOT#474193K), Kenilworth Avenue (DOT#474194S), Hamilton Avenue (DOT#474196F), Walnut Street (DOT#474198U), and East Main Street (DOT#474199B) crossings, because there has been no rail traffic at these crossings in many years, and OHCR has informed Staff that it does not intend to operate trains over these crossings in the foreseeable future. Staff states that OHCR does not relinquish its right to reopen this rail line, and understands that it bears the expense of restoring the warning devices if rail service resumes. Staff further recommends that the Commission require OHCR to place a stop and flag order on the crossings at Sleepy Hollow Drive (DOT#474191W), Fairy Falls Drive (DOT#474192D), Denman Avenue (DOT#474193K), Kenilworth Avenue (DOT#474194S), Hamilton Avenue (DOT#474196F), Walnut Street (DOT#474198U), and East Main Street (DOT#474199B) if there are any future train movements. If rail traffic greatly increases, Staff adds, the exemption should be reviewed to determine whether it should stay in place.

{¶ 7} At the August 26, 2016 hearing, testimony supporting the exemption was given by Jerry Stenner, Safety Service Director for the city of Coshocton; Jennifer Andrews, Transportation Supervisor for Coshocton Schools; and Steve Mercer, Mayor of Coshocton. No one spoke in opposition to the exemption request.

{¶ 8} Mr. Stenner stated that there is no train traffic at any of the crossings, and added that concrete barriers on the tracks at some of the crossings prevent any movement of rail traffic. He added that the tracks at the Cambridge Road (DOT#474195Y) and Chestnut Street (DOT#474200T) crossings have been removed and the pavement filled in

with asphalt. (Tr. at 6-7, 11.) Mr. Stenner contends that school buses will save time and reduce fuel usage if the exemption request is granted (Tr. at 6).

{¶ 9} Ms. Andrews asserts that considerable time is lost when school buses stop at the crossings, because bus drivers must slow down, ask up to 70 passengers to be quiet, and open the bus door to listen for a train (Tr. at 9-10). Ms. Andrews contends that some school buses cross the tracks 15 times daily, resulting in approximately 30 minutes of delay per bus (Tr. at 8). She added that concrete barriers on the tracks at some of the crossings prevent train traffic (Tr. at 8-9).

{¶ 10} Mr. Mercer explained that, at some of the crossings, the tracks have been removed from the roadway, eliminating the need for school buses to stop. He contends that traffic flow is impeded when the buses stop at grade crossings. (Tr. at 13-15.)

V. CONCLUSION

{¶ 11} R.C. 4511.63 provides that, after considering any comments or other information received, the Commission may approve or reject the application 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 of record, we find that, pursuant to R.C. 4511.63, the request that school buses and hazardous materials haulers be exempt from stopping is warranted at the Sleepy Hollow Drive (DOT#474191W), Fairy Falls Drive (DOT#474192D), Denman Avenue (DOT#474193K), Kenilworth Avenue (DOT#474194S), Hamilton Avenue (DOT#474196F), Walnut Street (DOT#474198U), and East Main Street (DOT#474199B) crossings. A review of the evidence reveals that there are no trains operating on the tracks at these crossings, and the requirement to stop is creating needless delay for school buses. Furthermore, because no trains are operating on the tracks, drivers

are not expecting school buses to stop at the crossings, and a collision could result. (Tr. at 6-7, 8-10, 13-14.)

{¶ 13} Further, a review of the evidence of record reveals that the exemption is not warranted at the Cambridge Road (DOT#474195Y) and Chestnut Street (DOT#474200T) crossings, because the rails have been removed from the roadway, the crossing surface paved over, and the warning devices removed (Tr. at 10).

{¶ 14} Upon considering all of the evidence, the Commission finds it reasonable, pursuant to R.C. 4511.63, to grant the request to exempt school buses and certain hazardous materials vehicles from stopping at the crossings indicated in Paragraph 12. We agree that, because there are no rail movements at these crossings, there is no risk of a train/vehicle collision. Further, an 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. The request for an exemption at the crossings indicated in Paragraph 13 is denied.

{¶ 15} Notwithstanding our granting of the exemption request for the crossings indicated in Paragraph 12, 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.

{¶ 16} Accordingly, the city of Coshocton, as the LHA, should place signs marked "Exempt" that are in conformance with the Ohio Manual of Uniform Traffic Control Devices at the crossings indicated in Paragraph 12 and at other appropriate locations in advance of the crossings.

{¶ 17} 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 OHCR 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 have no impact on the railroad, since OHCR is not currently conducting any operations effecting the crossings under consideration in these proceedings. Nevertheless, OHCR should provide advance notice to the Commission and the city of Coshocton in the event it intends to resume rail operations at the crossings indicated in Paragraph 12, which would impact school bus or hazard material transportation activities. In the event rail operations resume at these crossings, the Commission will reevaluate the exemptions.

VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 18} On July 12, 2016, Jerry Stenner, Safety Service Director for the city of Coshocton, filed a letter requesting, pursuant to R.C. 4511.63, an exemption from stopping for school buses and motor vehicles carrying certain hazardous materials at nine grade crossings in the city of Coshocton.

{¶ 19} Notice of the hearing was duly published in the Coshocton Tribune and the Coshocton Beacon Today, newspapers of general circulation in Coshocton County, Ohio, and by press releases issued by the Commission.

{¶ 20} On August 22, 2016, Staff filed an investigative report regarding the exemption request, in which it recommended granting the exemption for seven crossings and denying the exemption for two crossings.

{¶ 21} A hearing was held on August 26, 2016, in Coshocton, Ohio.

{¶ 22} Based upon the evidence presented at the hearing, the request to exempt school buses and certain commercial motor vehicles from stopping at grade crossings, as specified in 49 C.F.R. 392.10, is warranted for the crossings indicated in Paragraph 12, but not warranted at the crossings indicated in Paragraph 13.

VII. ORDER


{¶ 23} It is, therefore,

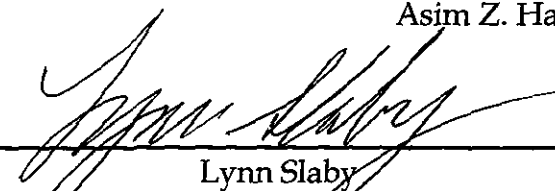
{¶ 24} ORDERED, That an exemption, pursuant to R.C. 4511.63, be granted to allow school buses and certain commercial motor vehicles, as specified in 49 C.F.R. 392.10, to proceed without stopping at each grade crossing identified in Paragraph 12. It is, further,

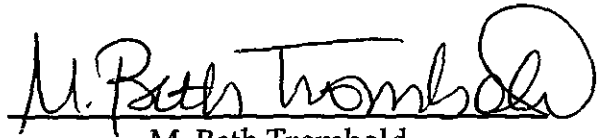
{¶ 25} ORDERED, That the exemption request be denied for the crossings indicated in Paragraph 13. It is, further,

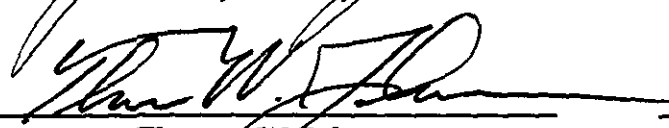
{¶ 26} ORDERED, That a copy of this Opinion and Order be served on Genessee & Wyoming, Inc., the Safety Service Director for the city of Coshocton, Transportation Supervisor for Coshocton city schools, and all other persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Asim Z. Haque, Chairman


Lynn Slaby

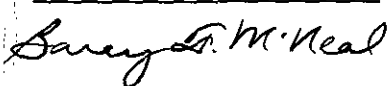

M. Beth Trombold


Thomas W. Johnson


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JML/sc

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Barcy F. McNeal
Secretary