

THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of a Request :
 by the Ohio Department of :
 Transportation for an : Case No.
 Exemption from Stopping : 17-915-RR-RCP
 for School Buses and :
 Hazardous Materials Vehicles :
 at the State Route 93/Adamsville:
 Road Grade Crossing in :
 Muskingum County. :

- - -

PROCEEDINGS

Before Jim Lynn, Attorney Examiner, held at the
 Avondale Youth Center, 4155 Roseville Road,
 Zanesville, Ohio on Tuesday, May 16, 2017, at
 1:00 P.M.

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INDEX TO WITNESSES

- - -

	Page
Douglas Morgan	4
Debbie Reed	6
James Creech	9
Michael Connor	11
Scott Dunbar	16

- - -

1 Tuesday Afternoon,
2 May 16, 2017.

3 - - -

4 ATTORNEY EXAMINER: The Public
5 Utilities Commission of Ohio and assigned for a
6 hearing at this time and place Case No.
7 17-915-RR-RCP In the Matter of a Request by the
8 Ohio Department of Transportation for an
9 Exemption for School Buses and Certain Hazardous
10 Materials Vehicles from Stopping at the State
11 Route 93/Adamsville Road Grade Crossing in
12 Muskingum County.

13 I am Jim Lynn, the Attorney Examiner
14 assigned to hear this case. The purpose of our
15 hearing today is to receive public comments
16 regarding the request made by ODOT. Your
17 testimony will be considered part of
18 the official record for this case and it will be
19 reviewed by the Commission before they make
20 their final decision.

21 I will start by calling all
22 the witnesses here, and it shouldn't be too hard
23 to get everybody fit in.

24 The court reporter will record their
25 statements, so please speak plainly and clearly,

1 so the reporter can accurately reflect your
2 comments. I think it's quiet enough in here
3 that we will have no problem hearing.

4 Please spell your name and state
5 your address, and tell the reporter why you
6 think the request should or should not be
7 granted. I am assuming you are all here in
8 favor of it. But, if you are not at any rate
9 speak up. And then I may ask you some questions
10 after you have finished your testimony.

11 When you give your testimony I will
12 swear you in. And, let's see. And that will
13 will be about it.

14 For our first witness we will call
15 Mr. Doug Morgan from ODOT who submitted the
16 request on behalf of the schools, and what would
17 you like to say about why the request was made
18 and any other details about the crossing.

19 (WITNESS SWORN)

20 - - -

21 DOUGLAS N. MORGAN

22 called as a witness, being first duly sworn,
23 testified as follows;

24 ATTORNEY EXAMINER: Go ahead.

25 MR. MORGAN: My name is Doug Morgan,

1 I work for the Ohio Department of Transportation
2 in District 5.

3 Back in March I received a request
4 from the city or Crooksville School District to
5 see about getting an exemption for the crossing
6 here in Avondale.

7 It's been abandoned by the railroad
8 company. It's currently under jurisdiction of
9 ORDC. And the Scenic Railway is utilizing it at
10 this time.

11 And so I looked into seeing what an
12 exemption was and what needed to happen in order
13 to go that direction. And based on our state
14 route out there the traffic we have, which is
15 around 9,000 cars a day, and trucks included,
16 and it being abandoned railroad with limited
17 crossing at this time.

18 There was concern for safety of the
19 school buses with school buses having to stop
20 right now and vehicles not used to people
21 stopping since there is not very many rails that
22 cross at this time.

23 So, upon the request I looked into
24 it and based on the State Ohio Department of
25 Transportation we would approve the exemption

1 for their site under current conditions with the
2 traffic that we have been told would be on
3 the rails at this time.

4 ATTORNEY EXAMINER: Thank you, Mr.
5 Morgan.

6 I will move on to other witnesses.
7 If I have any other questions I will let you
8 know. Thank you.

9 Next we will go to the folks from
10 the school district. And Debbie Reed, I
11 believe.

12 MS. REED: Yes, Debbie Reed.

13 ATTORNEY EXAMINER: Would you state
14 your name and who you work for and your address,
15 and so forth?

16 MS. REED: Okay. Debbie Reed. And
17 that's Crooksville Schools. 4065 Ceramic Way,
18 Crooksville, Ohio.

19 (WITNESS SWORN)

20 ATTORNEY EXAMINER: Please go ahead
21 and explain why you -- I assume it was you who
22 contacted Mr. Morgan about the exemption?

23 MS. REED: Actually James Creech is
24 the one who made the contact.

25 ATTORNEY EXAMINER: You both will be

1 able to testify. But, please add whatever
2 comments you have about the issue of why you
3 believe an exemption would be needed here.

4 MS. REED: Well, all
5 the transportation vehicles are pupil
6 transportation vehicles.

7 ATTORNEY EXAMINER: So school buses?

8 MS. REED: Which includes school
9 buses, our school Suburban, our school truck.
10 They are all three used for pupil transportation
11 from time-to-time.

12 They have to stop at any railway
13 crossing. And any time a vehicle, one of our
14 vehicles stops on the highway like that it just
15 puts that vehicle in jeopardy of being involved
16 in an accident. And we realized that this
17 railroad is not actually active with train
18 traffic, so if it could be exempted it would be
19 in the best interest actually of all the school
20 districts in the area that use that crossing.

21 EXAMINATION

22 By the Attorney Examiner:

23 Q. Have there been any collisions up to
24 this point between vehicles and buses?

25 A. Not that I know of.

1 Q. But the drivers are commenting on
2 that saying, well, somebody nearly ran into me?

3 A. Yes. Mainly with our school's
4 Suburban and the pick-up truck.

5 Q. And they are --

6 A. They are marked as transportation,
7 school transportation vehicles, and they have to
8 make the stop.

9 Q. So, but, there are students in those
10 vehicles?

11 A. We have to stop even if we don't
12 have students.

13 Q. Because it's a school vehicle?

14 A. Yes.

15 Q. Okay. And for the record you were
16 mentioning Suburban. That's a Chevrolet
17 Suburban?

18 A. Yes.

19 Q. At first I didn't quite understand
20 what you were referring to.

21 A. I am sorry.

22 Q. Any other thoughts then?

23 A. I don't believe so.

24 ATTORNEY EXAMINER: Okay. Move on
25 to the gentleman from the schools. And your

1 name and address and I will swear you in, please

2 (WITNESS SWORN)

3 - - -

4 JAMES CREECH

5 called as a witness, being first duly sworn,

6 testified as follows:

7 EXAMINATION

8 By the Attorney Examiner:

9 Q. Your name and who you are?

10 A. My name is James Creech. Work with
11 Crooksville Schools.

12 Q. And, Mr. Creech, what's your role
13 there at the schools?

14 A. I am actually a mechanic and I train
15 bus drivers.

16 Q. All right.

17 A. And I was talking with the bus
18 driver that makes this regular route and he
19 stated the other day when he stopped here a semi
20 went blowing right by him while he was stopped
21 at the tracks. So and I agree as well that
22 whenever the Suburban specifically or the Ford
23 F-250 four-door or even though there is a sign
24 on the back that we stop at all railroads, we
25 are not custom vehicles, it's dangerous at any

1 railroad, but one that is not active, one that
 2 has been abandoned just puts the danger higher
 3 of all of our vehicles and children.

4 Q. How many of your buses go over this
 5 particular crossing, either of them. Do you
 6 have any idea?

7 MS. REED: We have one bus that
 8 crosses four times a day.

9 Q. All right. I understand.

10 A. Not counting field trips, multiple
 11 field trips up this way.

12 Q. Any other thoughts, Mr. Creech,
 13 beyond what you said?

14 A. I would say just with it being
 15 abandoned it would be much safer for the bus,
 16 for the children, you know, because of a couple
 17 close calls we have had.

18 ATTORNEY EXAMINER: Thank you. We
 19 will move on to two gentlemen from the railroad.
 20 I appreciate that.

21 Let's go with Mr. Connor. Go with
 22 you first.

23 (WITNESS SWORN)

24 - - -

25 MICHAEL J. CONNOR

1 called as a witness, being first duly sworn,
2 testified as follows:

3 ATTORNEY EXAMINER: If you could
4 indicate your name and address and so on.

5 MR. CONNOR: Michael J. Connor, 1810
6 North Wooster Avenue, Dover 44622.

7 I am a retired railroad officer, but
8 I am serving as the Vice President marketing of
9 the Zanesville & Western Railway.

10 The Zanesville & Western Scenic
11 Railway contracted with the owner of the rail
12 line, the State of Ohio, Ohio Rail Development
13 Commission, several years ago to operate a
14 limited passenger excursion service, and that is
15 based out of Mt. Perry. The railroad is about
16 15 miles long. It's not been run in regular
17 freight service for about a decade and a half.

18 I want to correct a misunderstanding
19 of use. The railroad is not abandoned.
20 Abandoned is a legal format, really requires the
21 Surface Transportation Board in Washington to
22 make a decision. So, it is out of service, but
23 not abandoned. And that creates I think an
24 issue.

25 Just besides running the passenger

1 excursion operation we, the Zanesville & Western
2 Scenic Railway, caused the Zanesville & Western
3 Railway to be incorporated two years ago for
4 the purpose of actually ultimately reopening the
5 line for freight service.

6 That is not a fast process. First
7 of all we have to determine the customer demand,
8 and then there is basically the work getting the
9 railroad restored. The rails are all there. The
10 ties are generally in mixed condition.

11 I was with the Ohio Central railroad
12 from 1988 until 2006. We at the time were the
13 operator and put quite a bit of ties and
14 surfacing into the railroad. It's currently
15 growing a great crop of grass and trees, but
16 those too can be removed as part of the plan.

17 The Z&W, Zanesville & Western
18 Railway, has already been working with
19 contractors and others to put in motion the work
20 needed to be done to restore it. I do not have
21 a schedule.

22 I have made customer calls, however,
23 to start the process of letting the potential
24 users -- we have identified 67 of them already.

25 ATTORNEY EXAMINER: You are

1 referring to freight service?

2 MR. CONNOR: Freight customers,
3 excuse me. The first one is right at the
4 crossing. It would be the Carter Lumber
5 Company. And we will probably open the railroad
6 in segments as we proceed west to remove the
7 growth and to get other things back in shape.

8 So I think the really good news here
9 is that those disappearing railroad blues that
10 are unfortunately affecting the railroad
11 industry nationwide are happening here. It has
12 a chance of coming back to life and helping to
13 support the job creation in Muskingum and Perry
14 Counties.

15 We do not oppose creating the --
16 making this a -- changing the nature of
17 the crossing so long as nothing that is done
18 will stand in the way of bringing the freight
19 service back that is needed.

20 Several things could be done. This
21 will be a low speed railroad when it reopens.
22 I envision it probably 10 miles an hour, which
23 is FRA track standard 1. We clearly could flag
24 for the time being the crossing.

25 And, of course, there will be

1 cross-bucks and so on that will be in place.

2 EXAMINATION

3 By the Attorney Examiner:

4 Q. Mr. Connor, then you are indicating
5 the Zanesville & Western has an excursions
6 division, or how --

7 A. It's a separate -- legally separate
8 company, but it shares officers and shares
9 equipment.

10 Q. And then the Zanesville & Western
11 also will eventually you are saying will provide
12 freight service?

13 A. Yes.

14 Q. Presently how many of the excursion
15 trains use that track say annually, and what
16 times of the year do they use it?

17 A. Well, none of them operate over the
18 crossing in question. The railroad is about 15
19 miles long. They go about 10 miles west of here
20 at Mt. Perry. About three miles of the railroad
21 has been restored, i.e., brush, grass, et cetera
22 have been cleared. I think there is at least
23 one public crossing that we are working on
24 getting that back open out there.

25 Q. So you are indicating then the

1 excursion service, will it ever use the crossing
2 that is at issue, one that is at State Route 93
3 and Adamsville Road?

4 A. That was a long time ago.

5 Q. But it doesn't presently?

6 A. Presently it doesn't. That would be
7 up to the -- basically it's what the people want
8 to see.

9 Q. Then you are indicating you have a
10 feel for when freight service might begin?

11 A. I think within the next two years.

12 Q. And you are anticipating, you said
13 it would be a low speed crossing like 10 miles
14 per hour?

15 A. Right. Our work will be the retail
16 end of freight railroading. We are the ones
17 that will deliver the cars to the customer's
18 sidings and pull them. So there is not going to
19 be trains thundering through the night from
20 Cleveland to Chicago.

21 Q. And you mentioned that you were
22 interested or open to having someone flag at the
23 crossing when trains would cross there?

24 A. Yes.

25 Q. Okay. And at this point, so again

1 you said maybe two years or so before freight
2 service could be started?

3 A. It all depends on how things go.

4 Q. Thank you.

5 A. And we will open the railroad
6 probably in segments which means that two-year
7 line that I quoted, I was thinking in terms of
8 the whole thing. This one is a mile from the
9 main interchange with the outside world.

10 ATTORNEY EXAMINER: Thank you.

11 (WITNESS SWORN)

12 - - -

13 SCOTT DUNBAR

14 called as a witness, being first duly sworn,
15 testified as follows:

16 EXAMINATION

17 By the Attorney Examiner:

18 Q. If you could indicate your name.

19 A. Scott Dunbar.

20 Q. Thank you, Mr. Dunbar. And your
21 role with the railroad?

22 A. I am the Vice President of the
23 scenic railroad and of the freight railroad.

24 Q. What can you add about this request
25 that was made?

1 A. What is going on and moving forward?

2 Q. Well, yes. I mean, the fact, you
3 know, again I would ask, you can indicate too,
4 how many trains cross this track, how frequently
5 it might be used. You are from the scenic
6 railroad respect.

7 A. Yes.

8 Q. Tell me a little bit more about
9 that.

10 A. The scenic railroad is over toward
11 Mt. Perry. It is a segment of track that is
12 opened there. This is our attachment to the
13 outside world coming down to that switch into
14 the Ohio Central, Ohio Southern I believe that
15 is. And this is our connection to the world.

16 Q. That is this crossing?

17 A. The crossing and a mile to the east.

18 Q. I see. Connection to other miles of
19 track, to other track that's owned by the other
20 companies?

21 A. Correct. That is their interchange.

22 Q. And when you make that comment
23 about connecting to the outside world, is it
24 from the standpoint of the scenic railroad using
25 that ultimately, perhaps?

1 A. Basically both.

2 Q. You say both, the scenic as well as
3 the freight?

4 A. Yes.

5 Q. And again, just to repeat what Mr.
6 Connor said, but presently then there are none
7 of the excursion trains using this crossing?

8 A. But --

9 Q. But you are indicating it could
10 happen in the future?

11 A. It could happen in the future, yes.

12 Q. Okay. And just as Mr. Connor
13 indicated the possibility or likelihood of
14 flagging at the crossing, do you anticipate that
15 would happen as well?

16 A. We would want that to happen just
17 for safety factors.

18 Q. You would want it for the safety
19 factors?

20 A. Yes. We would be concerned about
21 opening the crossing up at any time. People are
22 not used to anything going across there.
23 We are very, very protective at first. I am
24 sure as time goes on we will make a change, but
25 looking at it right now that would be our first

1 move to protect the crossing.

2 Q. And do you have any anticipation of
3 how many trains from the excursion or the scenic
4 railroad would actually use that crossing?

5 A. At this point in time there is no
6 plans for that.

7 Q. No plans to go that far on the
8 track?

9 A. Yes. What we discovered, half an
10 hour for our rides is I would say kind of
11 the maximum people want to go. So you get too
12 far down the track the kids start screaming and
13 everything else. So the shorter the better.

14 Q. So basically they go one direction
15 then the other. They don't cross the crossing
16 and perhaps -- well, you are indicating they may
17 not so --

18 A. We never use it for that. It would
19 be our way to get equipment in and get equipment
20 out.

21 Q. But as far as the excursion part of
22 it --

23 A. No. We are not looking to come over
24 that crossing any time in the future.

25 Q. So because you are actually not

1 using the crossing that is at issue you would
2 not have any of the customers of your train
3 making any comments about, you know, they
4 observed a near collision between a school bus
5 and other vehicle. They never would have come
6 this far up the track I guess; correct?

7 A. We have crossed the crossing in
8 years past. We moved equipment across it, but
9 we do use a flagger to make sure traffic
10 stopped. We protect the crossing very heavily.

11 Q. When you say we use the track, that
12 would be the scenic or excursion?

13 A. Yes, sir.

14 ATTORNEY EXAMINER: Mr. Connor.

15 MR. CONNOR: If I can make a
16 comment. When our conductors are there there is
17 also a train there, and the train acts as a
18 pretty good standard for drivers to see that
19 maybe they better stop. So I think most of the
20 incidents connected with potential rear ending
21 are when there is nothing at the crossing.

22 ATTORNEY EXAMINER: Thank you. I
23 appreciate that comment. Nonetheless I also
24 appreciate that you are interested in doing the
25 flagging as well whenever the crossing might be

1 used. It would certainly be a plus, because
 2 what you are telling me now there is just
 3 cross-bucks at the track; is that right?

4 MR. CONNOR: Yes, sir.

5 ATTORNEY EXAMINER: Okay. I want to
 6 thank everyone for being here today. Is there
 7 anyone else that has any additional comments to
 8 add?

9 If not, anyone else at all? Okay.
 10 Thank's so much for taking the time to come.
 11 This is information that we needed.

12 And have a good afternoon. We will
 13 close the hearing then. Thank you.

14 (At 1:15 A.M. the hearing was
 15 concluded)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on May 16, 2017, and carefully compared with my original stenographic notes.

Michael O. Spencer,
Registered Professional
Reporter.

- - -

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 17-0915-RR-RCP

Summary: Transcript In the Matter of a Request by the Ohio Department of Transportation for an Exemption from Stopping for School Buses and Hazardous Materials Vehicles at the State Route 93/Adamsville Road Grade Crossing in Muskingum County, hearing held on May 16, 2017. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.