

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF A REQUEST FOR  
UPGRADES AT THE WHEELING & LAKE  
ERIE RAILWAY GRADE CROSSINGS IN  
HOPEDALE, HARRISON COUNTY, AND  
CRESTON, JEFFERSON COUNTY.

CASE NO. 16-523-RR-STP

### ENTRY

Entered in the Journal on June 14, 2017

#### I. SUMMARY

{¶ 1} The Commission approves an extension of the completion date, until October 13, 2017, for the Wheeling & Lake Erie Railway to install a new light and gate system near Hopedale, Harrison County, at Main Street/County Road 5 (DOT #472918D), subject to the Commission's ongoing jurisdiction and oversight.

#### II. DISCUSSION

##### A. *Applicable Law*

{¶ 2} Pursuant to R.C. 4905.04, the Commission has statutory authority to regulate and promote the welfare and safety of railroad employees and the traveling public.

{¶ 3} Pursuant to R.C. 4907.471, the Commission is responsible for evaluating public grade crossings to determine the need for installing active warning devices and apportioning the cost thereof.

{¶ 4} R.C. 4907.471 also provides that the Commission is responsible for the administration and implementation of the State Grade Crossing Protection Fund, established to help defray a portion of the public's share of the cost of upgrading warning devices at Ohio's highway-railroad grade crossings.

{¶ 5} Pursuant to Ohio Adm.Code 4901-1-30, any two or more parties may enter into a written stipulation concerning issues of fact.

{¶ 6} The Wheeling & Lake Erie Railway (WE) is a railroad as defined in R.C. 4907.02 and subject to the jurisdiction of the Commission under R.C. 4905.04.

***B. Procedural Background and Other Details***

{¶ 7} On April 14, 2016, the Commission issued a Finding and Order approving, in part, the installation of a new light and gate system near Hopedale, Harrison County, at Main Street/County Road 5 (DOT #472918D). The Commission ordered WE to complete the project by April 14, 2017.

{¶ 8} On April 12, 2017, WE filed a request for an additional 180 days to complete the project. WE explained that, because of the installation of a new siding track, construction and configurations have taken much longer than expected. WE added that it is determining the cost for the project, after which WE will order material and begin installation.

{¶ 9} Staff filed memos on April 24, 2017, and May 19, 2017, concerning WE's request. Staff explains that on July 22, 2016, and December 14, 2016, WE filed plans and estimates for the project with the Commission's Rail Division. Staff adds that, because WE designed the project in-house rather than using an outside contractor, there were delays in preparing plans and estimates. Staff notes that plans and estimates were approved, and construction authorization was granted, on March 16, 2017. Staff supports the request for a 180-day extension to finish the project, in light of the delays concerning plans and estimates.

{¶ 10} Pursuant to the Commission's September 19, 1996 Entry in *In re 1996 Federal Crossing Protection Program*, Case No. 96-676-RR-FED, the Commission authorized the attorney examiner assigned to the case to grant extensions for up to 30 days.

{¶ 11} On May 19, 2017, the attorney examiner issued an Entry extending the project deadline to June 14, 2017, to allow WE time to complete the project and the Commission time to consider WE's request.

{¶ 12} Upon review, the Commission finds that the completion deadline for the Main Street/County Road 5 (DOT #472918D) grade crossing project, near Hopedale, Harrison County, should be extended to October 13, 2017.

### III. ORDER

{¶ 13} It is, therefore,

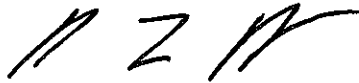
{¶ 14} ORDERED, That the completion deadline for the Main Street/County Road 5 (DOT #472918D) project be extended to October 13, 2017. It is, further,

{¶ 15} ORDERED, That when Staff or ORDC makes its final inspection and finds that the project is completed, Staff file a memorandum in this docket indicating that the project is completed. It is, further,

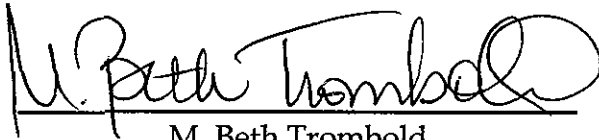
{¶ 16} ORDERED, That WE follow all standard railroad crossing safety protocol to ensure the protection of the traveling public at this crossing. It is, further,

{¶ 17} ORDERED, That a copy of this Entry be served upon WE, Ohio Power Company, Fiscal Officer of Wayne Township, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



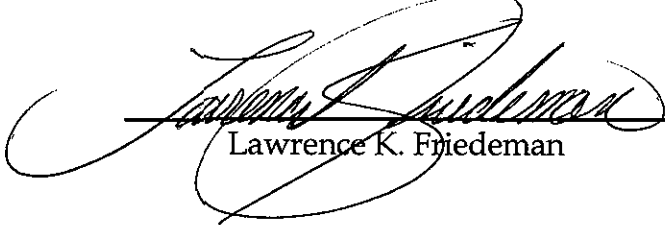
Asim Z. Haque, Chairman



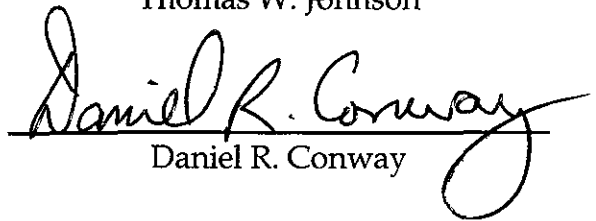
M. Beth Trombold



Thomas W. Johnson



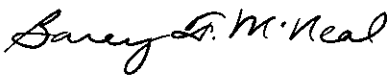
Lawrence K. Friedeman



Daniel R. Conway

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JUN 14 2017



Barcy F. McNeal  
Secretary