

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE AUTHORIZATION OF
NORFOLK SOUTHERN RAILWAY TO INSTALL
ACTIVE WARNING DEVICES AT A GRADE
CROSSING IN FULTON COUNTY.

CASE NO. 16-1413-RR-FED

ENTRY

Entered in the Journal on October 11, 2017

I. SUMMARY

{¶ 1} The Commission approves the request of Norfolk Southern Railway to extend to January 3, 2018, the deadline for installation of active warning devices at a grade crossing in the village of Archbold, Fulton County, by January 3, 2018, subject to the Commission's ongoing jurisdiction and oversight.

II. DISCUSSION

A. *Applicable Law*

{¶ 2} 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.

{¶ 3} R.C. 4907.471 provides that the Commission shall survey all grade crossings and establish a priority list to determine which grade crossings are in need of additional protective devices.

{¶ 4} R.C. 4907.476 provides that where the Ohio Department of Transportation (ODOT) enters into contracts and agreements for grade crossing protective device projects, the Commission shall work with and through the department. Federal funding for such projects is provided through the Ohio Rail Development Commission (ORDC), which is an independent agency of the state within ODOT, established in accordance with R.C. 4981.02.

{¶ 5} Norfolk Southern Railway (NS) 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

{¶ 6} On June 16, 2016, Staff filed a memorandum stating that the ORDC has authorized funding for NS to install mast-mounted flashing lights, side lights, roadway gates, and one cantilevered set of lights at the West Barre Street grade crossing (DOT#509522J), located in the village of Archbold, Fulton County. Staff requested that the Commission issue an order directing completion within nine months, but noted that issues with underground gas, fiber, and water lines may necessitate NS requesting additional time to complete the project.

{¶ 7} On July 6, 2016, the Commission issued a Finding and Order approving NS's installation of the aforementioned active warning devices at the West Barre Street grade crossing (DOT#509522J) in Archbold. The Commission ordered completion of the project by April 6, 2017.

{¶ 8} On March 23, 2017, NS filed a request for 30 additional days, until May 6, 2017, to complete the project. In a March 31, 2017 memorandum, Staff recommended approval of NS's request. Thereafter, in an April 5, 2017 Entry, the attorney examiner approved extension of the project deadline to May 6, 2017.

{¶ 9} On April 24, 2017, NS filed a request for an additional 120 days to complete the project. NS explained that the project is complex, with utility concerns impeding placement of the cantilever foundation for the northeast quadrant. With this in mind, NS requested a variance and proposed installation of flashing lights in the southeast quadrant in order to direct the same westbound traffic as cantilever lights in the northeast quadrant.

{¶ 10} Staff filed a memorandum on May 5, 2017, recommending that NS's request for additional time be approved. Staff added that it would evaluate the variance request and respond at a later date.

{¶ 11} In a May 5, 2017 Entry, the attorney examiner granted NS 30 more days, until June 5, 2017, to complete the project, and to allow the Commission more time to consider the variance request.

{¶ 12} On September 1, 2017, NS filed a request to extend the project deadline to January 3, 2018. NS asserts that progress has been made toward project completion, but concerns remain regarding project design and construction in the northeast quadrant. NS adds that, after the parties conducted an onsite visit in mid-July, ORDC suggested several alternative resolutions that the parties are considering.

{¶ 13} On September 8, 2017, Staff filed a memorandum regarding NS's September 1, 2017 request. Staff notes that there have been significant delays with the project engineering because of "multiple utility conflicts." Staff adds that it has evaluated the variance request, had numerous discussions with NS, and participated in a July 19, 2017 onsite review with NS, ORDC, and the city of Archbold. According to Staff, several options were discussed at the onsite meeting to resolve the northeast quadrant issues; further, Staff and ORDC have provided written comments to NS for review. Staff is waiting for NS to determine if it will proceed with the variance request or construct one of the options proposed at the onsite meeting. Staff supports NS's request to extend the project completion date to January 3, 2018.

{¶ 14} Upon review, the Commission finds that NS should be granted an extension of time, until January 3, 2018, to complete the project.

III. ORDER

{¶ 15} It is, therefore,

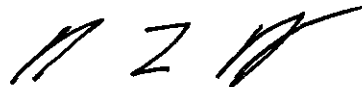
{¶ 16} ORDERED, That NS be granted an extension of time to January 3, 2018, to complete the project. It is, further,

{¶ 17} ORDERED, That, unless otherwise authorized, NS complete the project by January 3, 2018. It is, further,

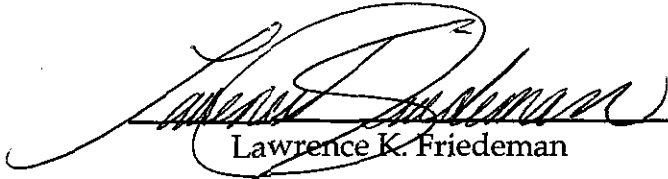
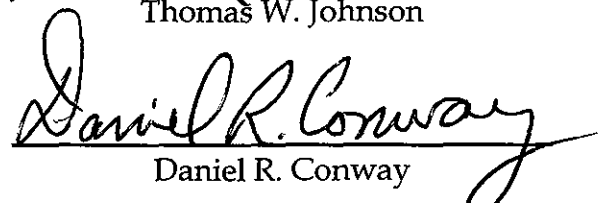
{¶ 18} ORDERED, That when Staff or ORDC makes its final inspection and finds that the project is completed, Staff file a memorandum in this docket indicating that the project is completed. It is, further,

{¶ 19} ORDERED, That a copy of this Entry be served upon ORDC, NS, Toledo Edison Company, Archbold Village Administrator, 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

JML/sc

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OCT 11 2017


Barcy F. McNeal
Secretary