

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE AUTHORIZATION  
OF THE INDIANA & OHIO RAILWAY TO  
INSTALL ACTIVE WARNING DEVICES AT  
GRADE CROSSINGS IN FAYETTE COUNTY AND  
FAIRFIELD COUNTY.

CASE NO. 17-2286-RR-FED

### FINDING AND ORDER

Entered in the Journal on November 29, 2017

#### I. SUMMARY

{¶ 1} The Commission directs the Indiana & Ohio Railway to install lights and gates at the Pearl Street grade crossing, in the city of Washington Court House, Fayette County, and the Quarry Road grade crossing, in the city of Lancaster, Fairfield County, by August 29, 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} Indiana & Ohio Railway (IORY) 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 November 2, 2017, Staff filed a memorandum stating that the ORDC has authorized funding for IORY to install active warning devices at the Pearl Street grade crossing (DOT#151913H), in the city of Washington Court House, Fayette County, and the Quarry Road grade crossing (DOT#514791L), in the city of Lancaster, Fairfield County. The approved actual cost, to be paid fully by federal funds, is as follows:

DOT#	City/County	Street	Federal Funds
151913H	Washington Court House, Fayette County	Pearl Street	\$198,481.97, subject to revision after bid tabulation
514791L	Lancaster, Fairfield County	Quarry Road	\$161,980.00, subject to revision after bid tabulation

Staff notes that the crossings were surveyed on October 18, 2016, and were found to warrant the upgrades. Staff requests that the projects be completed in nine months.

{¶ 7} Upon review, IORY is hereby authorized to acquire project materials and to commence construction as detailed in the letter of construction authorization. IORY shall notify Staff at least five working days before the date work is scheduled to begin at the projects so that arrangements can be made for any inspection. In addition, IORY shall timely notify Staff of any changes in the scope of work, cost overruns, materials, etc., which are not in the approved plans in order to estimate and secure approval before the work is performed.

{¶ 8} Within 30 days of the issuance of this Finding and Order, IORY shall file notice that it has initiated discussions with The Dayton Power & Light Company (DP&L), American Electric Power – Ohio (AEP), or any other applicable utility, to ensure that electric service will

be available to enable the grade crossing improvements to be constructed and placed in service within the deadline specified by the Commission. Such filing shall identify the steps IORY has taken with DP&L, AEP, or any other electric utility, and the local highway authority to have electric service available during the construction and cut-in phases of the projects. IORY shall serve a copy of the notice upon DP&L, AEP, or any other applicable utility. To ensure that the deadline is met, DP&L, AEP, or any other applicable utility, shall timely inform the Commission in writing of any issues regarding the availability of electric service.

{¶ 9} The Commission will issue no further construction authorization. Further, the grade crossing improvement projects should be completed by August 29, 2018.

{¶ 10} It is expected that all work necessary for Federal Highway Administration acceptance of the warning devices will be completed by the in-service due date and that IORY will be responsible for this work. This work includes, but is not limited to, any ancillary work to make the warning devices function as designed and visible to the roadway user, and Manual of Uniform Traffic Control Devices compliance, including minor roadway work if necessary.

{¶ 11} In order to expedite the activation of the warning devices, the Commission no longer requires a delay in activation pending final inspection by Staff. At the time Staff or ORDC makes its final inspection of the devices and finds that the identified installations are complete and the warning devices have been put in service, Staff should file a memorandum in this docket indicating that the installations are complete and that the warning devices have been put in service.

{¶ 12} With the intention of promoting increased public safety during the pendency of the projects, the Commission urges the appropriate local government agency to make an immediate assessment of interim physical improvements, which would enhance driver awareness at the crossings. The Commission may provide assistance in funding improvements, such as rumble strips, illumination, signs or other safety enhancements for the projects. Applications for such funding should be made to the Commission's Transportation Department, Rail Division, which shall review any proposal. In the event the department finds

the improvements appropriate, the department director is hereby authorized to execute a contract with the local government agency, and obligate up to \$5,000 from the State Grade Crossing Safety Fund for such improvements at the project locations. However, the local government agency should not initiate any improvements until a contract has been executed.

### III. ORDER

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That by December 29, 2017, IORY file notice that it has initiated with DP&L, AEP, or any applicable utility, the process to ensure that electric service will be available at the involved grade crossings as set forth in Paragraph 8. It is, further,

{¶ 15} ORDERED, That IORY follow the detailed instructions as outlined in the ORDC letter of construction authorization and proceed with and complete the projects by August 29, 2018. It is, further,

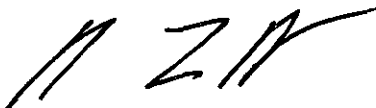
{¶ 16} ORDERED, That IORY notify Staff and ORDC at least five working days before the date work is scheduled to begin at the project sites so that arrangements can be made for any inspection. It is, further,

{¶ 17} ORDERED, That IORY timely notify Staff and ORDC of any changes in the scope of work, cost overruns, materials, etc., which are not in the approved plans and estimates, and shall secure approval before the work is performed. It is, further,

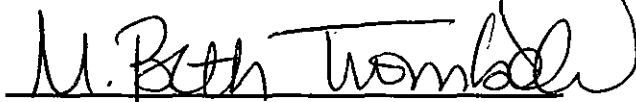
{¶ 18} ORDERED, That, at the time Staff or ORDC makes its final inspection and finds that the installations at the grade crossings are complete and the warning devices have been put in service, Staff will file a memorandum in this docket indicating that the installations are complete and the warning devices have been put in service. It is, further,

{¶ 19} ORDERED, That a copy of this Finding and Order be served upon ORDC, IORY, Patrick Engineering, City Engineer of Washington Court House, City Engineer of Lancaster, DP&L, AEP, and any other interested person of record.

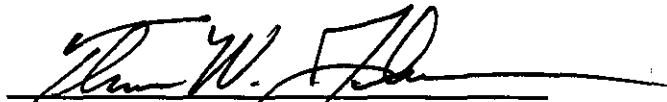
THE PUBLIC UTILITIES COMMISSION OF OHIO



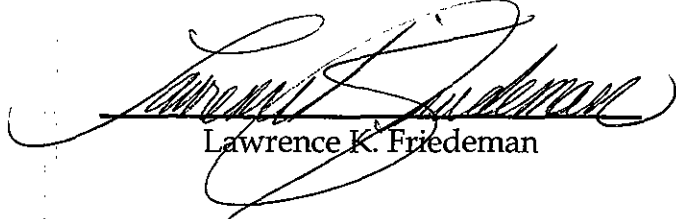
Asim Z. Haque, Chairman



M. Beth Trombold



Thomas W. Johnson



Lawrence K. Friedeman

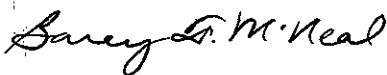


Daniel R. Conway

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Barcy F. McNeal  
Secretary