

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF A REQUEST FOR THE
INSTALLATION OF ACTIVE WARNING
DEVICES AT THE WHEELING & LAKE ERIE
RAILROAD GRADE CROSSING AT FIRESTONE
ROAD/COUNTY ROAD 26 IN MEDINA
COUNTY.

CASE NO. 18-269-RR-STP

FINDING AND ORDER

Entered in the Journal on March 14, 2018

I. SUMMARY

{¶ 1} The Commission approves the request to install active warning devices at the Firestone Road/County Road 26 grade crossing in Medina County, by March 14, 2019, subject to the Commission's ongoing jurisdiction and oversight.

II. DISCUSSION

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

{¶ 6} On February 12, 2018, Staff filed a memorandum indicating that Staff, the Ohio Rail Development Commission, WE, and Medina County, which is the local highway

authority, entered into an agreement, whereby WE will install gates and lights at the Firestone Road/County Road 26 grade crossing (DOT#002039K) in Medina County. Staff explains that on November 15, 2016, an on-site field review indicated that lights and gates were warranted because of visual obstructions for drivers approaching the tracks.

{¶ 7} The following is a summary of the conditions agreed to by the parties and is not intended to replace or supersede the agreement. Under the agreement:

- (a) Within 12 months from the date of the Commission Finding and Order adopting the agreement, WE will install lights and gates at the Firestone Road/County Road 26 grade crossing (DOT#002039K);
- (b) The parties agree to comply with the terms of the agreement and the Finding and Order adopting the agreement;
- (c) The Commission will provide funds from the State Grade Crossing Protection Fund to cover the Commission's cost of the project.
- (d) The local highway authority shall furnish advance warning signs and pavement markings as specified in the Manual on Uniform Traffic Control Devices and assume all costs to maintain such signage and markings in the future.
- (e) The costs of the project shall be apportioned between WE, which is responsible for maintenance and for ten percent of expenses, the Commission, which will provide 65 percent of the funding, and ORDC, which will provide 25 percent of the funding. Medina County is not responsible for any of the costs.

{¶ 8} While actual project design and cost estimates are not yet complete, predesign estimated costs for the project are to be apportioned as follows:

Party to Agreement	Share of Estimated Costs
WE	\$31,000, which is ten percent of total costs, plus the cost of maintenance
Commission	\$204,750, which is 65 percent of total costs
ORDC	\$78,750, which is 25 percent of total costs
Medina County	Medina County is not responsible for any of the project costs

{¶ 9} Staff requests a Commission order that adopts the agreement, directs WE to submit plans and estimates to the Commission within 90 days, and requires completion of the project within one year.

{¶ 10} Upon review of the agreement, the Commission finds that the terms and conditions therein insure the timely protection of the public at the crossing and provide a reasonable basis for apportioning costs thereof. Therefore, the agreement should be approved and, accordingly, the cost of the project should be allocated as set forth therein.

{¶ 11} By June 14, 2018, WE should submit to Staff the site plans and cost estimates for the project. Within seven days thereafter, WE should file a letter in this docket advising that the site plans and cost estimates have been submitted to the Commission. Following submission and approval of the site plans and cost estimates, unless otherwise directed, WE is hereby authorized to acquire project materials and to commence work as detailed in the letter of construction authorization. WE should notify Staff at least five working days before the date work is scheduled to begin at the project site so that arrangements can be made for inspections.

In addition, WE should notify Staff of any changes in the scope of work, cost overruns, materials, etc., which are not in the approved plans and estimates, and secure approval before the work is performed. WE should complete the project by March 14, 2019. The Commission will issue no further construction authorization in this matter.

{¶ 12} Within 120 days of the issuance of this Finding and Order, WE shall file a notice in the docket that it has initiated discussions with the Lorain Medina Rural Electric Cooperative (LMREC) or any other applicable utility with regard to the grade crossing project, 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 that WE has taken with LMREC and any other applicable electric utility, the government entity, and the local highway authority to have electric service available during the construction and cut-in phases of the project. WE shall serve a copy of the docketed notice upon LMREC and any other applicable utility. To ensure that the deadline is met, WE and LMREC shall timely inform the Commission in writing of any issues regarding the availability of electric service.

{¶ 13} In order to expedite the activation of the warning devices, the Commission no longer requires railroad companies to delay such activation pending the final inspection by Staff. However, WE should notify Staff 30 days before the projected date of completion. At the time Staff makes its final inspection of the devices and finds that the installation has been completed and the warning devices have been put in service, Staff should file a memorandum in this docket indicating that the installation has been completed and the warning devices have been put in service.

{¶ 14} With the intention of promoting increased public safety during the pendency of this project, the Commission urges the appropriate local government agency to make an immediate assessment of interim physical improvements which would enhance driver awareness at the project crossing. The Commission may provide assistance in funding improvements such as rumble strips, illumination, signs, or other safety enhancements at the

project location. Applications for such funding should be made to the Commission's Transportation Department, Railroad Division, which shall review all proposals. 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 crossing. However, the local government agency should not initiate any improvements until a contract has been executed.

III. ORDER

{¶ 15} ORDERED, That, by June 14, 2018, WE submit to the Commission's Railroad Division site plans and cost estimates for the project, and by June 21, 2018, file a letter in this docket advising that site plans and cost estimates have been submitted to the Commission. It is, further,

{¶ 16} ORDERED, That, following approval of the site plans and cost estimates, WE proceed with and complete the project by March 14, 2019. It is, further,

{¶ 17} ORDERED, That by July 14, 2018, WE file notice that it has initiated with LMREC and any applicable utility, the process to ensure that electric service will be available at the involved grade crossing as set forth in Paragraph 12. It is, further,

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

{¶ 19} ORDERED, That WE timely notify Staff 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,

{¶ 20} ORDERED, That WE notify the Commission and ORDC 30 days before the projected date of completion. It is, further,

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

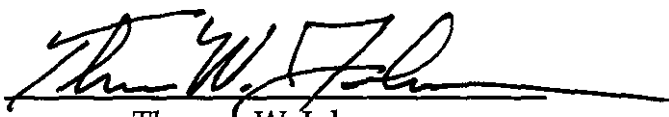
{¶ 22} ORDERED, That a copy of this Finding and Order be served upon WE, ORDC, Medina County Engineer, Medina County Commissioners, LMREC, and any other interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Asim Z. Haque, Chairman

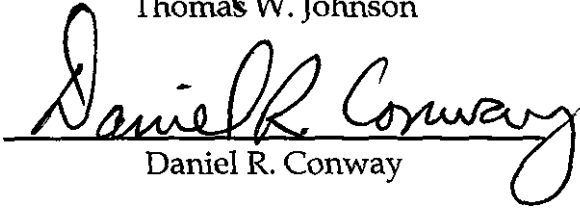
M. Beth Trombold



Thomas W. Johnson



Lawrence K. Friedeman

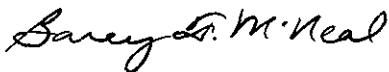


Daniel R. Conway

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MAR 14 2018



Barcy F. McNeal

Barcy F. McNeal
Secretary