

# Memo

To: Docketing Division  
From: Jill Henry, Rail Specialist, Rail Division  
Cc: PUCO Legal Department  
Date: 8/27/2018

Re: PUCO Case No. 17-1508-RR-FED- In the Matter of an Extension Request for the Installation of New Active Warning Devices at Norfolk Southern Railway Grade Crossings, Stewart Street (DOT# 524-628S), Irwin Street (DOT#527-818F), Miami Chapel Road (DOT#524-629Y), & Findlay Street (DOT#527-819M), in Montgomery County, Ohio.

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On October 5, 2015, the Ohio Rail Development Commission (ORDC) authorized funding for Norfolk Southern Railway to install new warning devices at Stewart Street (DOT# 524-628S), Irwin Street (DOT#527-818F), Miami Chapel Road (DOT#524-629Y), & Findlay Street (DOT#527-819M), in Montgomery County, Ohio. The crossings were surveyed on May 3, 2011 and were found to warrant the upgrades.

On July 26, 2017, the Commission approved the project and ordered completion by July 26, 2018.

On July 12, 2018, NS filed for an extension until December 31, 2020. On August 17, 2018, NS filed an amended request for an extension until November 15, 2018. In the request, NS states that they are working to complete PTC (Positive Train Control) projects and their resources are being used to meet the federal mandate of December 31, 2018 for PTC.

ORDC has indicated to Staff that they not opposed to the extension request, but notes that this is a safety project that was surveyed in 2011.

Staff recommends that the Commission grant the 90 day extension request, but would like NS to complete the project by November 15, 2018. Staff will not consider additional extensions of time, due to PTC, unless firm and reasonable construction deadlines are provided.



involved construction projects at the following grade crossings in Dayton, Montgomery County: Stewart Street (DOT# 524628S), Irwin Street (DOT# 527818F), Miami Chapel Road (DOT# 524629Y), and Findlay Street (DOT# 527819M).

A memorandum in support is attached.

Respectfully submitted,

EASTMAN & SMITH LTD.

/s/ D. Casey Talbott

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Railway Company

### **MEMORANDUM IN SUPPORT**

By Finding and Order of July 26, 2017, the Commission authorized NSRC to install new active warning devices at the above-referenced grade crossings in Dayton, Montgomery County. Substantial progress has been made – specifically, from a design and engineering standpoint, the projects have been progressed as far as they can be. But with respect to actual construction and cut-in, NSRC seeks a deferral of the assigned project completion deadline. The reason is that NSRC – like a number of other rail carriers throughout the country – is obligated to comply with the Positive Train Control Enforcement and Implementation Act of 2015 (“PTC”), which carries with it what appears to be a firm installation deadline of December 31, 2018, with operational implementation to be accomplished no later than December 31, 2020.

This federal mandate – unprecedented in scope, as to both capital investment and requisite manpower – has caused the affected carriers, including NSRC, to mobilize/dedicate their resources (manpower and equipment), toward complying with the federal mandate.

In light of same, NSRC would respectfully request that the project completion deadline for the four Dayton crossings be extended for ninety (90) days from the date of today's filing – so through November 15, 2018.

Respectfully submitted,

EASTMAN & SMITH LTD.

/s/ D. Casey Talbott

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**PROOF OF SERVICE**

A copy of the foregoing **Amended Request to Defer Construction Deadline** was filed electronically with the Commission this 17<sup>th</sup> day of August, 2018. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/ D. Casey Talbott

Attorney for Norfolk Southern

Railway Company

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**8/17/2018 4:28:03 PM**

**in**

**Case No(s). 17-1508-RR-FED**

**Summary: Request Amended Request to Defer Construction Deadline electronically filed by Mr. D. Casey Talbott on behalf of Norfolk Southern Railway Company**

**This foregoing document was electronically filed with the Public Utilities**

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**8/28/2018 11:10:08 AM**

**in**

**Case No(s). 17-1508-RR-FED**

Summary: Response In the Matter of an Extension Request for the Installation of New Active Warning Devices at Norfolk Southern Railway Grade Crossings, Stewart Street (DOT# 524-628S), Irwin Street (DOT#527-818F), Miami Chapel Road (DOT#524-629Y), & Findlay Street (DOT#527-819M), in Montgomery County, Ohio. electronically filed by Mrs. Jill A Henry on behalf of PUCO/Rail Division