

# Memo

To: Docketing Division  
From: Jill Henry, Rail Specialist, Rail Division  
Cc: PUCO Legal Department  
Date: 9/7/2018

Re: PUCO Case No. 17-2372-RR-FED- In the Matter of an Extension Request for the Installation of New Active Warning Devices at the Norfolk Southern Railway Crossing, Market Street/SR 226 DOT#503-082A, in Holmes County, Ohio.

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On April 19 2017, the Ohio Rail Development Commission (ORDC) authorized funding for Norfolk Southern Railway to install lights and gates at the Market Street/SR 226 DOT#503-082A, in Holmes County, Ohio. The crossing was surveyed, on March 16, 2017, and found to warrant the upgrade.

On December 13, 2017, the Commission approved the project and ordered completion by September 13, 2018.

On August 29, 2018, NS filed a request for an extension until December 12, 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.

Staff recommends that the Commission grant the extension request, but would like NS to complete the project by December 12, 2018. Staff will not consider additional extensions of time, due to PTC, unless firm and reasonable construction deadlines are provided.

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A memorandum in support is attached.

Respectfully submitted,

EASTMAN & SMITH LTD.

/s/ D. Casey Talbott

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Attorneys for Norfolk Southern  
Railway Company

**MEMORANDUM IN SUPPORT**

By Finding and Order of December 13, 2017, the Commission authorized NSRC to install new active warning devices at the above-referenced grade crossing in Holmes County. Substantial progress has been made – specifically, from a design and engineering standpoint, the project has been progressed as far as it 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 respectfully requests that the project completion deadline for the involved crossing be extended for ninety (90) days, so through December 12, 2018.

Respectfully submitted,

EASTMAN & SMITH LTD.

/s/ D. Casey Talbott

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**PROOF OF SERVICE**

A copy of the foregoing **Request to Defer Construction Deadline** was filed electronically with the Commission this 29<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**

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**Case No(s). 17-2372-RR-FED**

Summary: Response In the Matter of an Extension Request for the Installation of New Active Warning Devices at the Norfolk Southern Railway Crossing, Market Street/SR 226 DOT#503-082A, in Holmes County, Ohio. electronically filed by Mrs. Jill A Henry on behalf of PUCO/Rail Division