

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF A REQUEST FOR
UPGRADES AT THE WHEELING & LAKE
ERIE RAILWAY CROSSING ON E. MAIN
STREET/STATE ROUTE 103 IN THE
VILLAGE OF NEW WASHINGTON, IN
CRAWFORD COUNTY.

CASE NO. 18-1548-RR-STP

FINDING AND ORDER

Entered in the Journal on October 24, 2018

I. SUMMARY

{¶ 1} The Commission approves the request to install upgraded warning devices and a new crossing surface at the E. Main Street/State Route 103 grade crossing in the village of New Washington, in Crawford County, by October 24, 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} Pursuant to Ohio Adm.Code 4901-1-30, any two or more parties may enter into a written stipulation concerning issues of fact.

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

{¶ 7} On October 15, 2018, Staff filed a memorandum indicating that Staff and WE entered into a subsidy stipulation (stipulation), whereby WE will install upgraded warning devices and a new crossing surface at the E. Main Street/State Route 103 crossing (DOT#001945B) in the village of New Washington, in Crawford County. Staff explains that on September 19, 2018, an on-site field review indicated that the crossing needed to be upgraded and that a new crossing surface should be installed. Staff agreed to use a combination of new and refurbished materials for the crossing.

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

- (a) Within 12 months from the date of the Commission Finding and Order adopting the stipulation, WE will install upgraded warning devices and install a new crossing surface at the E. Main Street/State Route 103 grade crossing (DOT#001945B);
- (b) The parties agree to comply with the terms of the stipulation and the Finding and Order adopting the stipulation;
- (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 the Commission, which will provide funds up to \$240,000, and WE, which will provide for any costs exceeding \$240,000, plus maintenance.

{¶ 9} 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	Costs exceeding \$240,000, plus maintenance
Commission	Funds up to \$240,000

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

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

{¶ 12} By January 24, 2019, 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 October 24, 2019. The Commission will issue no further construction authorization in this matter.

{¶ 13} 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 North Central Electric Cooperative (NCEC) 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 NCEC 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 NCEC and any other applicable utility. To ensure that the deadline is met, WE and NCEC shall timely inform the Commission in writing of any issues regarding the availability of electric service.

{¶ 14} 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.

{¶ 15} 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

{¶ 16} ORDERED, That, by January 24, 2019, WE submit to the Commission's Railroad Division site plans and cost estimates for the project, and by January 31, 2019, file a letter in this docket advising that site plans and cost estimates have been submitted to the Commission. It is, further,

{¶ 17} ORDERED, That, following approval of the site plans and cost estimates, WE proceed with and complete the project by October 24, 2019. It is, further,

{¶ 18} ORDERED, That by February 24, 2019, WE file notice that it has initiated with NCEC and any applicable utility, the process to ensure that electric service will be available at the involved grade crossing as set forth in Paragraph 13. It is, further,

{¶ 19} ORDERED, That WE 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 any inspection. It is, further,

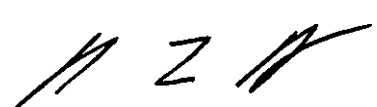
{¶ 20} ORDERED, That WE timely notify Staff of any changes in the scope of work, cost overruns, materials, etc., which are not in the approved plans and estimates, and shall secure approval before the work is performed. It is, further,

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

{¶ 22} 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,

{¶ 23} ORDERED, That a copy of this Finding and Order be served upon WE, ORDC, NCEC, 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

JML/hac

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OCT 24 2018


Barcy F. McNeal

Barcy F. McNeal
Secretary