

Memo

To: Docketing Division
From: Jill Henry, Rail Specialist, Rail Division
Cc: PUCO Legal Department
Date: 1/11/2019

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.

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 and Staff recommended the 90 day extension request, but noted that these are safety projects and Staff does not support ongoing delays. On September 19, 2018, the Commission granted the 90 day extension request until November 15, 2018.

On November 1, 2018, NS filed a 30 day extension request. In the request, NS states that Irwin Street and Findlay Street are scheduled to be put in service next week, but they need additional time for Miami Chapel Road and Stewart Street. They anticipate putting the remaining crossings in service prior to December 15, 2018. On November 13, 2018, the Commission approved a 30 day project extension.

On November 14, 2018, NS filed an amended request to allow for a 30 day extension for Findlay Street. Overhead electric line issues have delayed completion of the project and are being resolved.

On December 3, 2018, NS filed a 30 day extension request for Miami Chapel Road and a 120 day extension request for Stewart Street and Findlay Street. Based upon e-mail discussions concerning these crossings, it appears to Staff that the utility issues are being addressed, but have delayed construction completion. On December 27, 2018, the Commission granted a 30 day extension request until January 11, 2019.

On December 27, 2018, NS filed an additional project extension request until July 11, 2019. In the request they state that utility conflicts remain at the Stewart Street, Miami Chapel Road, and Findlay Street. No additional details about the conflict or a proposed timeline for removal of the conflict were given.

Staff has been cc'd on e-mails for this project and it appears that utility conflicts are being resolved. Additionally, ORDC notes that federal funding for this project is due to expire in August 2019. This means project billing must be completed prior by June for funding to be paid out. It usually takes NS a few months to final bill a project.

Staff recommends that NS be granted a 30 day extension until February 11, 2019 for all three crossings. Additionally, Staff recommends that NS provide more details on the following: what are the utility conflicts, why these issues were not addressed prior to construction, and a proposed timeframe for removal of the conflicts for each crossing.

A memorandum in support is attached.

Respectfully submitted,
EASTMAN & SMITH LTD.

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MEMORANDUM IN SUPPORT

By and through counsel, NSRC accessed the instant docket and became aware that PUCO Staff had filed a related Staff Memo on December 2, 2018 and that earlier today, the Commission (by and through the assigned hearing officer) had granted NSRC an extension of time through January 11, 2019 within which to complete the three (3) remaining construction projects – specifically, at Miami Chapel Road, Stewart Street, and Findlay Street. (Recall that the fourth project – Irwin Street – had been placed into service as of November 5, 2018.)

Unfortunately, a number of concerns (primarily utility conflicts, etc.) remain outstanding at these three crossings, which will not enable NSRC to complete the projects within the newly-assigned deadline. NSRC continues to work diligently to address/resolve these concerns, and has been attempting to keep PUCO Staff apprised with respect to same.

In addition, the federal PTC mandate – unprecedented in scope, as to both capital investment and requisite manpower – continues to impact NSRC (and presumably, other affected carriers), with respect to the mobilization and dedication of related resources.

For the foregoing reasons, NSRC respectfully requests that the project completion deadline for the three (3) remaining Dayton crossings be extended through July 11, 2019.

In the interim, meaning pending completion of the three remaining projects, the Commission is reminded that each of these crossings is currently protected by active warning devices – specifically, both lights and gates.

Respectfully submitted,
EASTMAN & SMITH LTD.

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PROOF OF SERVICE

A copy of the foregoing **Request to Extend Construction Deadline** was filed electronically with the Commission this 27th day of December, 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

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12/27/2018 3:47:05 PM

in

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

Summary: Request Request to Extend 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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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