

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE AUTHORIZATION  
OF NORFOLK SOUTHERN RAILWAY TO  
INSTALL ACTIVE WARNING DEVICES IN  
THE CITY OF CINCINNATI, HAMILTON  
COUNTY.

CASE NO. 17-1965-RR-FED

## ENTRY

Entered in the Journal on March 27, 2017

### I. SUMMARY

{¶ 1} The Commission grants additional time, until May 21, 2019, for Norfolk Southern Railway to install lights and gates at the 66th Street grade crossing in the city of Cincinnati, Hamilton County, 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 shall survey all grade crossings and establish a priority list to determine which grade crossings are in need of additional protective devices.

{¶ 4} R.C. 4907.476 provides that where the Ohio Department of Transportation (ODOT) enters into contracts and agreements for grade crossing protective device projects, the Commission shall work with and through the department. Federal funding for such projects is provided through the Ohio Rail Development Commission (ORDC), which is an independent agency of the state within ODOT, established in accordance with R.C. 4981.02.

{¶ 5} Norfolk Southern Railway (NS) 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 October 20, 2017, the Commission issued a Finding and Order approving NS's installation of active warning devices at the 66th Street grade crossing (DOT#524734A) in the city of Cincinnati, Hamilton County. The Commission ordered completion of the project by January 18, 2019.

{¶ 7} On January 4, 2019, NS filed a request seeking a four month extension of time to complete the project. NS explained that utility concerns have delayed installation and cut-in. NS noted that it has worked with Duke Energy Ohio, Inc. (Duke) to resolve an overhead conflict, but a potential underground conflict was still to be resolved with Qwest Communications Company, LLC (Qwest).

{¶ 8} Staff filed a memorandum on January 14, 2019, stating that it was aware of the utility conflicts at the project. Staff recommended a 30-day time extension and that NS provide more details regarding the nature of the utility conflicts, as well as a timeframe for resolving the conflicts.

{¶ 9} Pursuant to the Commission's September 19, 1996 entry in *In re 1996 Federal Crossing Protection Program*, Case No. 96-676-RR-FED, the Commission authorized the attorney examiner assigned to the case to grant extensions for up to 30 days.

{¶ 10} In a January 16, 2019 Entry, the attorney examiner granted NS until February 19, 2019, to continue work on the project and provide information specified by Staff.

{¶ 11} On February 4, 2019, NS filed a request that the project completion date be extended to July 19, 2019. NS explains that, because Qwest has a fiber optic cable near the proposed sites for signal foundations, NS has been determining the optimal type of foundations for the signals. Specifically, NS is investigating the use of precast foundations that are shallow; final determination cannot be made until digging has begun and NS can determine exactly where the fiber optic cable is located.

{¶ 12} Staff filed a memorandum on February 22, 2019, recommending that NS be granted until May 21, 2019, to complete the project. Staff notes that the project has been ongoing for years and needs to be completed. Staff adds that excavation to determine the proper foundation can take place at any time. Staff urges NS to proceed with that determination rather than waiting for the arrival of warmer weather.

{¶ 13} Upon review of NS's request and Staff's recommendation, the Commission finds that NS's request for additional time is warranted, but will be granted until May 21, 2019. NS should expedite work on the project and follow all standard railroad crossing safety protocol to ensure the protection of the traveling public at this crossing. Further, Staff should monitor work at the project to ensure completion within the newly ordered timeframe.

{¶ 14} NS should notify Staff, ORDC, mayor of the city of Cincinnati, and Duke upon completion of the project. At the time Staff or ORDC makes its final inspection and finds that the installations are completed, Staff should file a memorandum in this docket indicating that the project is completed.

### III. ORDER

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That NS's request for additional time to complete the project be granted in accordance with Paragraph 13. It is, further,

{¶ 17} ORDERED, That NS complete the project no later than May 19, 2019. It is, further,

{¶ 18} ORDERED, That NS follow all standard railroad crossing safety protocol to ensure the protection of the traveling public at the crossings. It is, further,

{¶ 19} ORDERED, That NS notify Staff, ORDC, mayor of the city of Cincinnati, and Duke upon the completion of the project. It is, further,

{¶ 20} ORDERED, That when Staff or ORDC makes its final inspection and finds that the project is completed, Staff file a memorandum in this docket indicating that the project is completed. It is, further,

{¶ 21} ORDERED, That a copy of this Entry be served upon ORDC, mayor of the city of Cincinnati, and Duke and any other interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

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M. Beth Trombold, Chair

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Thomas W. Johnson

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Lawrence K. Friedman

\_\_\_\_\_  
Daniel R. Conway

JML/hac

Entered in the Journal

**MAR 27 2019**

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Tanowa M. Troupe

Tanowa M. Troupe  
Secretary