

Memo

To: Docketing Division
From: Jill Henry, Rail Specialist, Rail Division
Cc: PUCO Legal Department
Date: 5/20/2019

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 (NS) 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. The Commission granted a 30 day extension until February 11, 2019.

On February 8, 2019, NS filed a 5 month extension request. In the request they note that Miami Chapel Road was put into service on February 4, 2019, Findlay Street is scheduled to be in-service by February 12, 2019. Stewart Street is the remaining crossing to be completed. The Commission granted a 90 day extension, on March 27, 2019, until May 13, 2019.

On May 7, 2019, NS filed a 12 month extension request, until May 13, 2020, for Stewart Street. In the request, NS states that they have continued delays due to PTC and that there are two utility conflicts remaining that will hopefully be resolved this month.

In reviewing the current status of the project, Staff notes that the projects in this case have been in the works for many years and need to be completed. Additionally, the utility conflicts at Stewart Street have been delayed in resolution due to NS permitting and no progress has been made since February to resolve them. Some of this construction could have already been completed prior to the overhead conflicts being resolved.

ORDC does not support a 12 month extension request. Staff feels that 12 months is excessive given that the utility conflicts are the only remaining issue. Staff recommends that the Commission grant a 90 day extension request.

A memorandum in support is attached.

Respectfully submitted,
EASTMAN & SMITH LTD.

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MEMORANDUM IN SUPPORT

Recall that this case involves construction projects at four separate grade crossings in Dayton, Montgomery County: Irwin Street (DOT #527818F), Miami Chapel Road (DOT #524629Y), Findlay Street (DOT #527819M), and Stewart Street (DOT #524628S).

Substantial progress has been made – specifically, Irwin was placed in-service as of November 5, 2018, Miami Chapel as of February 4, 2019, and Findlay as of February 12, 2019.

But outstanding utility conflicts have delayed final construction and cut-in at the remaining crossing – specifically, Stewart.

By way of greater information: There are two remaining utility conflicts at Stewart – Crown Castle which is expected to be resolved shortly (perhaps by the end of this week), and Charter which is expected to be resolved by or about the end of May. Following same, due to the approaching, federally-mandated PTC deadline, NRSC anticipates that it would need through approximately May of 2020 within which to complete construction and cut-in.

In the meantime, NSRC confirms that Stewart remains protected by active warning devices.

For the foregoing reasons, NSRC respectfully requests that the Commission grant it a further extension of time here, through May 13, 2020, within which to complete the instant project – specifically, to complete construction and cut-in at Stewart.

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 6th day of May, 2019. 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

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5/6/2019 4:41:48 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: Memorandum 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