

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE AUTHORIZATION
OF METRO REGIONAL TRANSIT
AUTHORITY FOR LED UPGRADES AT
GRADE CROSSINGS IN STARK AND
SUMMIT COUNTIES.

CASE NO. 22-226-RR-STP

FINDING AND ORDER

Entered in the Journal on April 6, 2022

I. SUMMARY

{¶ 1} The Commission approves a stipulation agreement with Metro Regional Transit Authority to install LED lights at grade crossings in Stark and Summit counties, by April 6, 2023, 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} Metro Regional Transit Authority (MRTA) 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 March 17, 2022, Staff filed a memorandum indicating that Staff and MRTA entered into a subsidy stipulation (stipulation), whereby MRTA will install LED lights at nine grade crossings in Stark County and four grade crossings in Summit County. Staff notes that electric service already exists at the crossings; therefore, utility notification is not needed for the upgrades. Staff has reviewed the subsidy agreement and determined it to be in order. Staff recommends that the Commission adopt the agreement and direct MRTA to complete the upgrades within one year.

{¶ 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, MRTA will install LED lights at the following crossings: Stark County, city of Akron, Case Avenue North (DOT#142926K), Archwood Avenue East (DOT#142918T), Krumroy Road (DOT#142911V); Stark County, city of North Canton, Mount Pleasant Road (DOT#142895N), Applegrove Street NW (DOT#919850H), Whipple Avenue NW (DOT#142887W), Everhard Road NW (DOT#142886P); Stark County, city of Canton, 38th Street NW (DOT#142885H), Fulton Road (DOT#142883U); Summit County, city of Krumroy, Turkeyfoot Lake Road (DOT#142903D), Raber Road (DOT#142902W); Summit County, city of Green, Heckman Road (DOT#142900H) and State Street/Greensburg Road (DOT#142897C).
- (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 projects.

{¶ 9} While actual project design and cost estimates are not yet complete, preliminary cost estimates of the projects are to be apportioned as follows: the Commission will pay \$7,500 for each crossing, for a total of \$97,500 for all crossings, and MRTA will pay for any costs exceeding \$7,500 for each crossing.

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

{¶ 11} 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, MRTA 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 installations have been completed and the warning devices have been put in service, Staff should file a memorandum in this docket indicating that the installations have been completed and the warning devices have been put in service.

{¶ 12} 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 crossings. The Commission may provide assistance in funding improvements such as rumble strips, illumination, signs, or other safety enhancements at the project locations. 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 crossings. However, the local government agency should not initiate any improvements until a contract has been executed.

III. ORDER

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That MRTA proceed with and complete the projects by April 6, 2023. It is, further,

{¶ 15} ORDERED, That MRTA notify Staff at least five working days before the date work is scheduled to begin at the project sites so that arrangements can be made for any inspection. It is, further,

{¶ 16} ORDERED, That MRTA 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,

{¶ 17} ORDERED, That MRTA notify the Commission and the Ohio Rail Development Commission (ORDC) 30 days before the projected date of completion. It is, further,

{¶ 18} ORDERED, That, at the time Staff or ORDC makes its final inspection and finds that the installations at the grade crossings are complete and the warning devices have been put in service, Staff will file a memorandum in this docket indicating that the installations are complete and the warning devices have been put in service. It is, further

{¶ 19} ORDERED, That a copy of this Finding and Order be served upon MRTA, Bergmann Engineers, and any other interested person of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

JML/hac

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4/6/2022 2:35:23 PM

in

Case No(s). 22-0226-RR-STP

Summary: Finding & Order approving a stipulation agreement with Metro Regional Transit Authority to install LED lights at grade crossings in Stark and Summit counties, by April 6, 2023, subject to the Commission's ongoing jurisdiction and oversight. electronically filed by Kelli C. King on behalf of The Public Utilities Commission of Ohio