

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE AUTHORIZATION
OF CHICAGO, FT. WAYNE & EASTERN
RAILROAD FOR LED UPGRADES AT
GRADE CROSSINGS IN HARDIN, ALLEN,
AND VAN WERT COUNTIES.

CASE NO. 22-776-RR-STP

FINDING AND ORDER

Entered in the Journal on September 7, 2022

I. SUMMARY

{¶ 1} The Commission approves a stipulation agreement with Chicago, Ft. Wayne, & Eastern Railroad for LED upgrades at 28 grade crossings in Hardin, Allen, and Van Wert counties, by September 7, 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} Chicago, Ft. Wayne, & Eastern Railroad (CFE) 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 August 11, 2022, Staff filed a memorandum indicating that Staff and CFE entered into a subsidy stipulation (stipulation), whereby CFE will upgrade to LED lights at 28 grade crossings in Hardin, Allen, and Van Wert counties. 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 that CFE 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, CFE will install LED lights at crossings in Hardin, Allen, and Van Wert counties.
- (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 project are to be apportioned as follows: the Commission

will pay \$7,500 for each crossing, for a total of \$210,000, and CFE will pay for any costs exceeding \$7,500 for each crossing. Crossings for the LED upgrade are as follows:

DOT#	Street	County	City
532669S	Wayne St.	Hardin	Dunkirk
532670L	CR 113 – Main St.	Hardin	Dunkirk
532675V	SR 81	Hardin	Ada
532678R	Johnson St.	Hardin	Ada
532679X	SR 235 – Main St.	Hardin	Ada
532680S	Gilbert St.	Hardin	Ada
532681Y	Klinger Rd.	Hardin	Ada
532692L	High St.	Allen	Lafayette
532693T	Church St.	Allen	Lafayette
532694A	Washington St.	Allen	Lafayette
532697V	McClure Rd.	Allen	Lafayette
532699J	Thayer Rd.	Allen	Lafayette
532700B	Fetter Rd.	Allen	Lafayette
532703W	Roush Rd.	Allen	Lima
532710G	Main St.	Allen	Lima
532713C	McDonel St.	Allen	Lima
532714J	Metcalf St.	Allen	Lima
532715R	Baxter St.	Allen	Lima
532719T	Cole St.	Allen	Lima
532721U	Hartzler Rd.	Allen	Lima
532723H	East Rd.	Allen	Lima
532724P	Baty Rd.	Allen	Elida
532728S	Wapak Rd.	Allen	Elida
532730T	Kemp Rd.	Allen	Elida
532741F	Lehman Rd.	Allen	Delphos
532758J	Adams St.	Van Wert	Middle Point
532759R	Mason St.	Van Wert	Middle Point
532791J	Lincoln Hwy	Van Wert	Convoy

{¶ 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, CFE 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 CFE proceed with and complete the projects by September 7, 2023. It is, further,

{¶ 15} ORDERED, That CFE 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 CFE 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 CFE 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 CFE 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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Summary: Finding & Order that the Commission approves a stipulation agreement with Chicago, Ft. Wayne, & Eastern Railroad for LED upgrades at 28 grade crossings in Hardin, Allen, and Van Wert counties, by September 7, 2023, subject to the Commission's ongoing jurisdiction and oversight electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio