

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE AUTHORIZATION  
OF CINCINNATI EASTERN RAILROAD TO  
INSTALL ACTIVE WARNING DEVICES IN  
EAGLE TOWNSHIP, BROWN COUNTY.

CASE NO. 21-276-RR-FED

## FINDING AND ORDER

Entered in the Journal on November 16, 2022

### I. SUMMARY

{¶ 1} The Commission approves the request of Cincinnati Eastern Railroad for additional time, until February 5, 2023, to install flashing lights and gates at the Tri-County Road/C.R. 24 grade crossing in Eagle Township, Brown 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} Cincinnati Eastern Railroad (CCET) 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 March 30, 2021, Staff filed a memorandum stating that the ORDC has authorized funding for CCET to install flashing lights and gates at the Tri-Road/C.R. 24 grade crossing (DOT#481818X) in Eagle Township, Brown County.

{¶ 7} On May 5, 2021, in a Finding and Order, the Commission ordered completion of the project by February 5, 2022.

{¶ 8} On February 7, 2022, and May 16, 2022, CCET requested additional time, ultimately to October 5, 2022, to complete the project because of negotiations with adjacent landowners for an electrical easement, as well as instituting electric service at the site. Staff recommended approval of both requests.

{¶ 9} On September 23, 2022, CCET requested until February 5, 2023, to complete the project. CCET explained that an alternate option for power is being investigated at the site.

{¶ 10} Staff filed a memorandum on October 31, 2022, addressing CCET's September 23, 2022 request. Staff states that it met with CCET on October 14, 2022, to discuss options for obtaining power at the crossing. Staff explains that Norfolk Southern Railway (NS) actually owns the track at the site; CCET is the lessee. Staff notes that existing electric service at the site is inadequate for the new warning devices, and that CCET is pursuing a purchase option with a landowner for an electric easement, but the landowner is asking a much larger price for the easement than typically is paid in grade crossing projects. Staff adds that CCET will again discuss options with NS and emphasizes that Staff will contact NS for possible electric service solutions. Staff concludes by emphasizing that it has discussed the matter with ORDC, which supports the extension request; further, Staff finds that CCET is working to complete the project. Staff recommends approval of the extension request.

{¶ 11} Given the request presented by CCET and Staff's recommendation, the Commission finds that the request for additional time, until February 5, 2023, should be granted. CCET should continue 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 continue to monitor work at the project.

{¶ 12} CCET should notify Staff, ORDC, 40 Services LLC, Brown County Engineer, Eagle Township Trustees, and AEP-Ohio upon completion of the project. At the time Staff or ORDC makes its final inspection and finds that the project is completed, Staff should file a memorandum in this docket indicating that the installations are completed.

### III. ORDER

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That CCET's request for additional time to complete the project, until February 5, 2023, be granted. It is, further,

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

{¶ 16} ORDERED, That CCET notify Staff, ORDC, 40 Services LLC, Brown County Engineer, Eagle Township Trustees, and AEP-Ohio upon completion of the project. It is, further,

{¶ 17} 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,

{¶ 18} ORDERED, That a copy of this Entry be served upon ORDC, 40 Services LLC, Brown County Engineer, Eagle Township Trustees, AEP-Ohio and any other interested person of record.

**COMMISSIONERS:**

*Approving:*

Jenifer French, Chair  
Lawrence K. Friedeman  
Dennis P. Deters

JML/hac

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**Case No(s). 21-0276-RR-FED**

Summary: Finding & Order that the Commission approves the request of Cincinnati Eastern Railroad for additional time, until February 5, 2023, to install flashing lights and gates at the Tri-County Road/C.R. 24 grade crossing in Eagle Township, Brown County, subject to the Commission's ongoing jurisdiction and oversight electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio