

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE AUTHORIZATION  
OF NORFOLK SOUTHERN RAILWAY TO  
INSTALL ACTIVE WARNING DEVICES AT  
A GRADE CROSSING IN THE CITY OF  
SYLVANIA, LUCAS COUNTY.

CASE NO. 23-283-RR-STP

## FINDING AND ORDER

Entered in the Journal on April 19, 2023

### I. SUMMARY

{¶ 1} The Commission approves a stipulation agreement with Norfolk Southern Railway and the city of Sylvania, in Lucas County, to install flashing lights and gates at the Monroe Street grade crossing by April 19, 2024, 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 Safety 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} Norfolk Southern Railway (NSR) 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 30, 2023, Staff filed a memorandum stating that the Staff, NSR, and the city of Sylvania entered into a subsidy stipulation (Stipulation) to install flashing lights and gates at the Monroe Street grade crossing (DOT#508-870J) in the city of Sylvania, Lucas County. The electric service provider at this crossing is Toledo Edison Company (TEC). Staff has reviewed the Stipulation and determined it to be in order. Staff recommends that the Commission adopt the agreement and direct NSR 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, NSR will upgrade to flashing lights and gates at the Monroe Street grade crossing (DOT#508-870J) by April 19, 2024.
- (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 Safety Fund to cover the Commission's cost of the projects.

{¶ 9} Costs are to be apportioned as follows: the Commission will provide \$360,000, NSR will pay for maintenance, and the city of Sylvania will pay for any costs exceeding \$360,000. Preliminary cost estimates for the project total \$642,423.00.

{¶ 10} Upon review of the Stipulation, the Commission finds that the terms and conditions therein ensure the timely protection of the public at the crossing and provide a reasonable basis for apportioning costs thereof. Therefore, the Stipulation should be approved and, accordingly, the cost of the project 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, NSR 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 crossing. The Commission may provide assistance in funding improvements such as rumble strips, illumination, signs, or other safety enhancements at the project location. 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 crossing. 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 the Stipulation filed in this case be adopted consistent with Staff's recommendation on March 30, 2023. It is, further,

{¶ 15} ORDERED, That, by July 18, 2023, NSR submit to the Commission's Railroad Division site plans and cost estimates for the project, and by July 25, 2023, file a letter in the

docket advising that site plans and cost estimates have been submitted to the Commission. It is, further,

{¶ 16} ORDERED, That, following approval of the site plans and cost estimates, NSR proceed with and complete the project by April 19, 2024. It is, further,

{¶ 17} ORDERED, That by August 17, 2023, NSR file notice that it has initiated with TEC, or any applicable utility, the process to ensure that electric service will be available at the grade crossing. It is, further,

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

{¶ 19} ORDERED, That NSR 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,

{¶ 20} ORDERED, That NSR notify the Commission 30 days before the projected date of completion. It is, further,

{¶ 21} ORDERED, That, at the time Staff makes its final inspection and finds that the installations at the grade crossing 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,

{¶ 22} ORDERED, That a copy of this Finding and Order be served upon NSR, Deputy Director for the city of Sylvania, TEC, and any other interested person of record.

**COMMISSIONERS:**

*Approving:*

Jenifer French, Chair  
Daniel R. Conway  
Lawrence K. Friedeman  
Dennis P. Deters  
John D. Williams

JML/dr

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**Case No(s). 23-0283-RR-STP**

Summary: Finding & Order that the Commission approves a stipulation agreement with Norfolk Southern Railway and the city of Sylvania, in Lucas County, to install flashing lights and gates at the Monroe Street grade crossing by April 19, 2024, subject to the Commission's ongoing jurisdiction and oversight electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio.