

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF A REQUEST BY THE  
TRUMBULL COUNTY ENGINEER FOR AN  
EXEMPTION FROM STOPPING FOR  
SCHOOL BUSES AND HAZARDOUS  
MATERIALS VEHICLES FOR CROSSINGS  
IN WARREN TOWNSHIP, TRUMBULL  
COUNTY, OHIO.

CASE NO. 23-165-RR-RCP

## OPINION AND ORDER

Entered in the Journal on June 14, 2023

### I. SUMMARY

{¶ 1} The Commission grants a request by the Trumbull County Engineer for an exemption from stopping at a crossing in Leavittsburg, Warren Township, Trumbull County.

### II. FACTS AND PROCEDURAL BACKGROUND

{¶ 2} On February 27, 2023, Randy Smith, the Trumbull County Engineer filed a letter requesting an exemption for school buses and motor vehicles carrying certain hazardous materials from stopping at the grade crossings DOT Nos. 142-710E and 262-604C located immediately south of the intersection of S. Leavitt Road and W. Market Street in Leavittsburg, Warren Township, Trumbull County.

{¶ 3} On May 17, 2023, Staff filed a report regarding its investigation (Staff Report) of the request made on behalf of the Trumbull County Engineer. Staff recommends that the exemption be granted for DOT No. 262-604C.

{¶ 4} By Entry issued on April 19, 2023, the attorney examiner scheduled a local public hearing in this matter for May 22, 2023.

{¶ 5} Notice of the hearing was published in the *Tribune Chronicle*, a newspaper of general circulation in Trumbull County, Ohio.

{¶ 6} The public hearing was conducted on May 22, 2023, at Trumbull County Law Library, in Trumbull County, Ohio. One witness testified in support of the exemption request (Tr. at 3).

### III. LAW

{¶ 7} The Commission's authority to grant an exemption from stopping at railroad grade crossings, applicable to school buses and certain commercial motor vehicles, as specified in 49 C.F.R. 392.10, is found in R.C. 4511.63, which provides, in part:

Except as provided in division (B) of this section, the operator of any bus, any school vehicle, or any vehicle transporting a material or materials required to be placarded under 49 C.F.R. Parts 100-1855, before crossing at grade any track of a railroad, shall stop the vehicle.

{¶ 8} R.C. 4511.63(B) provides that the section does not apply at railroad grade crossings when the Commission has authorized and approved an exempt crossing pursuant to the division.

### IV. SUMMARY OF THE EVIDENCE

{¶ 9} In its report, Staff observes that the crossing with DOT No. 262-604C is the only crossing eligible for an exemption, as DOT No. 142-710E has been found to have track removed and is now a closed crossing. Staff states that the crossing with DOT No. 262-604C is on a two-lane roadway near Leavittsburg in Trumbull County, Ohio that travels north and south with a highway rail grade crossing owned by the Youngstown Belt Railroad, which runs east and west. The crossing has lights, crossbucks, and cantilever. Staff notes that the crossing is covered in asphalt and inaccessible to trains due to vegetation. Staff notes that the line for this railroad crossing is out of service, and the railroad does not

currently operate on this track. As such, the crossing is inaccessible to trains, and it has been over a decade since a train has been on this line. Moreover, Staff recommends that the exemption request should be granted. (Staff Report at 4.)

{¶ 10} Given its findings, Staff recommends the following actions be taken: (1) approve the exemption request to prevent vehicles from stopping at the crossing; (2) require installation of derail devices west of the crossing to prevent train traffic; (3) require Youngstown Belt Railroad to notify the Commission if rail traffic resumes at the crossing and any future train movements over the grade crossing be required to be flagged per operating rules; and (4) require Staff to conduct a follow-up inspection to verify that exemption signs are posted and to update the rail database (Staff Report at 9).

{¶ 11} At the May 22, 2023 hearing, one witness testified in support of the exemption. Anthony J. Calderone, the Superintendent of the LaBrae Local Schools testified regarding the significant traffic buildup at the crossings and its unsafe conditions for stopping school buses. He stated that the crossings pose a hazard, as impatient drivers attempt to pass the stopped school buses at the crossings. Mr. Calderone commented that he has been with the LaBrae School District Board for 12 years and he has never seen the railroads active during his tenure. Further, Mr. Calderone presented that he has been working with township trustees to remove the unused railroad crossings referenced in this case. He noted that they were successful in getting the southernmost railroad crossing dealt with, and that DOT #262-604C was the remainder of the two crossings. As such, Mr. Calderone iterated that the primary concern or the request is to enhance traffic safety and to create a more consistent flow of traffic at the crossing. (Tr. at 3-5.)

## V. COMMISSION CONCLUSION

{¶ 12} R.C. 4511.63 provides that, after considering any comments or other information received, the Commission may approve or reject an application for an exemption and may establish conditions for the exempt crossing designation. R.C. 4511.63(B)(2) also provides that an exempt crossing becomes effective only when

appropriate signs giving notice of the exempt designation are erected at the crossing, as ordered by the Commission, and any other conditions ordered by the Commission are satisfied.

{¶ 13} After consideration of the evidence, we find that, in light of Staff's recommendations and the testimony of the witness, pursuant to R.C. 4511.63, the request for an exemption is warranted at the grade crossing located at S. Leavitt Road and W. Market Street (DOT No. 262-604C) in Trumbull County.

{¶ 14} Upon considering all of the evidence, and pursuant to R.C. 4511.63, the Commission finds it reasonable to grant the request to exempt school buses and certain hazmat vehicles from stopping at the crossing, as would usually be required by 49 C.F.R. 392.10. We note that, because there is no train traffic on this rail, train/vehicle collisions are not likely to occur. Furthermore, the exemption will decrease the potential for accidents caused by inattentive drivers not realizing that a school bus or hazmat vehicle has stopped in front of them or reckless drivers who attempt to drive around stopped school buses or hazmat vehicles. Notwithstanding our granting of the exemption request, all vehicles, including those covered by the exemption, must fully comply with all other state of Ohio motor vehicle safety rules and obey all existing warning devices whenever a train is operating over a grade crossing.

{¶ 15} Accordingly, Leavittsburg and/or Trumbull County, as the local highway authority, should place signs marked "Exempt" that are in conformance with the Ohio Manual of Uniform Traffic Control Devices at the respective crossing and at other appropriate locations in advance of the grade crossing.

{¶ 16} Further, R.C. 4511.63 provides that the Commission may rescind any exempt crossing designation made under this section if it finds that a condition at the exempt crossing has changed to such an extent that continuing the exempt crossing designation compromises public safety. If Youngstown Belt Railroad or any other railroad files a petition to rescind a granted exemption, we shall reconsider such petitions according to R.C.

4511.63. We note that the granting of the exemption request has little impact on the railroad, since Youngstown Belt Railroad conducts no operations affecting the crossing under consideration in this proceeding. Nevertheless, Youngstown Belt Railroad shall provide advance notice to the Commission, the Trumbull County Engineer, and the local school district in the event that Youngstown Belt Railroad intends to resume rail operations at the crossing which would impact school bus or hazmat transportation activities. In the event rail operations resume at the crossing, the Commission will reevaluate the exemption.

## VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 17} On February 27, 2023, the Trumbull County Engineer filed a letter requesting an exemption for school buses and certain commercial motor vehicles, as specified in 49 C.F.R. 392.10, from stopping at the crossing at S. Leavitt Road and W. Market Street (DOT No. 262-604C) in Trumbull County.

{¶ 18} May 17, 2023, Staff filed its Staff Report regarding the exemption request.

{¶ 19} A public hearing was held on May 22, 2023, in Trumbull County, Ohio at the Trumbull County Law Library.

{¶ 20} Notice of the May 22, 2023 hearing was published in *Tribune Chronicle*, a newspaper in general circulation in Trumbull County, Ohio.

{¶ 21} The request for exemption from stopping for school buses, as well as certain commercial motor vehicles, as specified in 49 C.F.R. 392.10, is warranted based upon the evidence presented at the public hearing and the Staff Report for the crossing located at S. Leavitt Road and W. Market Street (DOT No. 262-604C).

## VII. ORDER

{¶ 22} It is, therefore,

{¶ 23} ORDERED, That an exemption, pursuant to R.C. 4511.63, be granted to allow school buses and certain commercial motor vehicles, as specified in 49 C.F.R. 392.10, to proceed without stopping at the Leavitt Road and W. Market Street (DOT No. 262-604C) grade crossing in Trumbull County. It is further,

{¶ 24} ORDERED, That Leavittsburg or Trumbull County place signs marked “Exempt” that are in conformance with the Ohio Manual of Uniform Traffic Control Devices at the grade crossing DOT No. 262-604C and at other appropriate locations in advance of the crossing. It is, further,

{¶ 25} ORDERED, That Staff conduct a follow-up inspection to verify that exemption signs are posted and update the Commission’s rail database as needed. It is, further,

{¶ 26} ORDERED, That Youngstown Belt Railroad shall notify the Commission, the Trumbull County Engineer, and the local school district in the event that it intends to resume rail operations at the crossing which would impact school bus or hazmat transportation activities.

{¶ 27} ORDERED That a copy of this Opinion and Order be served on Youngstown Belt Railroad, the Trumbull County Engineer, Northern G&W Railroad Services, Superintendent of LaBrae Local School District, and all other persons of record.

### COMMISSIONERS:

#### *Approving:*

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

IMM/mef

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Summary: Opinion & Order that the Commission grants a request by the Trumbull County Engineer for an exemption from stopping at a crossing in Leavittsburg, Warren Township, Trumbull County electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio.