

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE AUTHORIZATION
OF INDIANA & OHIO RAILWAY TO
INSTALL ACTIVE WARNING DEVICES AT
A GRADE CROSSING IN THE CITY OF
CINCINNATI, HAMILTON COUNTY.

CASE NO. 23-242-RR-FED

FINDING AND ORDER

Entered in the Journal on January 10, 2024

I. SUMMARY

{¶ 1} The Commission grants the abeyance of the completion date for Indiana & Ohio Railway project to install flashing lights and gates at the Roe Street grade crossing in the city of Cincinnati, Hamilton County.

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} Indiana & Ohio Railway (IORY) 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 April 19, 2023, the Commission issued a Finding and Order directing IORY to install flashing lights and gates at the Roe Street (DOT#151-359U) grade crossing in the city of Cincinnati, Hamilton County. The Commission ordered completion of the project by January 19, 2024.

{¶ 7} On December 8, 2023, IORY filed a request for a six-month extension, citing material supply issues. IORY did not provide a time frame for equipment availability.

{¶ 8} Staff filed a memorandum on December 14, 2023, in response to IORY's request. Staff states that because IORY has requested a lengthy time extension for project completion and the suppliers have not provided an expected date for equipment delivery, the project should be placed in abeyance, with IORY required to file monthly updates in the case docket regarding equipment availability. Once the equipment has been delivered to IORY, Staff continues, a new project completion date can be determined. Staff adds that it has discussed the matter with ORDC and they support the lengthy extension request. Staff notes that IORY has kept Staff apprised of the supply chain issues and is working to complete this project.

{¶ 9} The Commission finds Staff's recommendations to be reasonable. Accordingly, IORY's Roe Street (DOT#151-359U) grade crossing project in the city of Cincinnati, Hamilton County shall be placed abeyance, and IORY shall be directed to file monthly updates regarding equipment availability. Once the equipment is available for IORY to resume the project, Staff will determine a new date for project completion.

{¶ 10} As was indicated in our previous order, and with the intention of promoting increased public safety during the pendency of the 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 crossing. The Commission may provide assistance in funding improvements, such as rumble strips, illumination, signs or other safety enhancements for the project. Applications for such funding should be made to the Commission's Transportation Department, Rail Division, which shall review any

proposal. 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 project location. However, the local government agency should not initiate any improvements until a contract has been executed.

III. ORDER

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That the completion date of the IORY project at the Roe Street (DOT#151-359U) grade crossing in the city of Cincinnati, Hamilton County, be placed in abeyance. It is further,

{¶ 13} ORDERED, That IORY file monthly updates in the case docket regarding equipment availability. It is, further,

{¶ 14} ORDERED, That upon IORY filing information indicating that the necessary equipment is available, Staff recommend a new date for project completion. It is, further,

{¶ 15} ORDERED, That a copy of this Finding and Order be served upon ORDC, IORY, Alfred Benesch & Company, Engineer for the city of Cincinnati, Duke, and any other interested person of record.

COMMISSIONERS:

Approving:

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

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Case No(s). 23-0242-RR-FED

Summary: Finding & Order granting the abeyance of the completion date for Indiana & Ohio Railway project to install flashing lights and gates at the Roe Street grade crossing in the city of Cincinnati, Hamilton County electronically filed by Debbie S. Ryan on behalf of Public Utilities Commission of Ohio.