

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of a Request for an Exemption)
from Stopping for School Buses at the U.S.) Case No. 05-1075-RR-RCP
Route 20 Highway/Railroad Grade Crossing)
(518-643F), Stony Ridge, Ohio.)

OPINION AND ORDER

The Commission, considering the applicable law, exhibits, and evidence of record, and being otherwise fully advised, hereby issues its opinion and order in this matter.

OPINION:

I. Procedural History

On August 31, 2005, the Lake Local School District (Lake Local) filed a letter requesting, pursuant to Section 4511.63, Revised Code, an exemption for school buses from stopping at a railroad grade crossing located at U.S. Route 20 (US 20) (518-643F) in Stony Ridge, Ohio. Lake Local claimed that requiring school buses to stop at this grade crossing increases the risk that such vehicles could be struck from behind by other vehicles.

On September 8, 2005, Commission staff filed an investigative report on the exemption request. By Entry issued September 14, 2005, a public and evidentiary hearing was scheduled for October 19, 2005, in Millbury, Ohio, and the Commission's Docketing Division was directed to publish notice of the hearing in a newspaper of general circulation in Wood County. In addition, the September 14, 2005 entry directed that any party could file comments on the exemption request by October 7, 2005. No comments were filed on the exemption request and notice of the hearing was published in the *Daily Sentinel-Tribune*. The hearing was held as scheduled.

II. Applicable Law

The Commission's authority to grant exemptions for school buses and vehicles carrying hazardous materials (hazmat) from stopping at railroad grade crossings is found in Section 4511.63, Revised Code. Section 4511.63(A), Revised Code, 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 100-185, before crossing at grade any track of a railroad, shall stop the vehicle.

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Section 4511.63(B), Revised Code, provides that Section 4511.63(A), Revised Code, does not apply when the Commission has authorized and approved an exempt crossing pursuant to the division.

III. Summary of the Evidence

In its report, staff indicated that the grade crossing involved in this exemption request is located on US 20 in the village of Stony Ridge, Wood County (Staff Ex. 1). Staff noted that US 20 is a two-lane highway with a posted speed of 45 mph and is used by an estimated 12,580 vehicles per day. Staff also reported that the crossing is equipped with double mast mounted flashers, has advance warning signs, stop bars, and pavement markings in both directions, and has a concrete surface that is in good condition. In addition, staff reported that the railroad line is operated by Double D Logistics (DDL), but that no rail traffic has operated over this crossing during the past five years.

At the hearing, one witness on behalf of the Commission staff and several public witnesses provided testimony on the exemption request. Melinda Bolbach, Commission railroad inspector, testified that she prepared the staff report in this matter. She indicated that the speed limit on US 20 is 45 mph and that the requirement for school buses and hazmat vehicles to stop at the crossing creates dangerous conditions for all motorists. Paul Orshoski, Lake Local Schools superintendent, testified that many Lake Local school buses travel over this crossing, and that the requirement to stop at the crossing increases the risk of a rear-end collision (Tr. at 4). Jeff Culler indicated that he is the buildings, grounds, and transportation supervisor for Eastwood Local Schools. He explained that, because the road in advance of the crossing is curved, vehicles traveling toward the crossing have little advance time to see and react to a school bus stopped at the crossing (Tr. at 8). He also indicated that school buses from three other school districts use this crossing for school and extracurricular activities (Tr. at 10). Tammy Tapley, transportation director for Lake Local Schools, explained that the procedure school bus drivers must follow before proceeding over a railroad grade crossing takes up to 30 seconds and most other vehicles are not expecting any vehicles to be stopped at the crossing. She indicated that school bus drivers do not feel safe stopped at the crossing: "You're sitting there with your air brake on and it's a very vulnerable position" (Tr. at 12-13). Mark Wasylshyn, Wood County sheriff, noted that the volume of trucks carrying hazardous materials that use US 20 has increased in recent years and this has further increased the dangers involved in rear-end collisions (Tr. at 18). Jim Jacobs, a Troy Township Trustee and owner of the railroad line that is the subject of the exemption request, testified that there have been no trains operating on the railroad track for seven years. He also indicated that, while he supports the exemption request as both owner and trustee; he wanted to insure that granting the exemption request would not preclude DDL from any future rail operations at this crossing (Tr. at 20, 21). Mike Ligabel, representative of Ohio Department of

Transportation (ODOT) District 2, testified that ODOT had no objection to granting the exemption for school buses and hazmat vehicles (Tr. at 24-26).

IV. Commission Conclusion

Section 4511.63(B)(2), Revised Code, provides that, after considering any comments or other information received, the Commission may approve or reject the exemption request. After consideration of the evidence of record, we find that the request for an exemption from stopping for buses and school buses, pursuant to Section 4511.63, Revised Code, is warranted. We also find that, based on the evidence, an exemption from stopping, pursuant to Section 4511.63, Revised Code, is also warranted for vehicles transporting a material or materials required to be placarded under 49 C.F.R. Parts 100-185. We agree with local officials and others that the potential for accidents at this crossing, created by stopped buses and other vehicles from being struck from behind, outweighs the potential of a vehicle/train accident given that there are currently no rail movements at this crossing and the highway speed at the crossing is 45 mph. Therefore, the request for an exemption from stopping for buses, school buses, and any vehicle transporting a material or materials required to be placarded under 49 C.F.R., Parts 100-185, pursuant to Section 4511.63, Revised Code, should be granted. Accordingly, ODOT should place signs marked "Exempt" that are in conformance with the Ohio Manual of Uniform Traffic Control Devices at the crossing and at other appropriate locations in advance of the crossing.

Notwithstanding our granting of this exemption request, all vehicles, including those covered by the exemption, must fully comply with all state of Ohio motor vehicle safety rules and obey all existing warning devices whenever a train is operating over this crossing. Therefore, although we are granting the request for an exemption, we are not exempting operators of these vehicles from stopping at this crossing when warning lights are activated or when trains are operated over the crossing.

Finally, Section 4511.63(B)(3), Revised Code, also 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 the continuation of the exempt crossing designation compromises public safety. We note that the granting of this exemption request has no impact on DDL's operations on this rail line which, as we have stated, are not currently occurring. Nevertheless, DDL should provide advance notice to the Commission, and the villages of Millbury and Stony Ridge in the event it intends to resume rail operations at the crossing in the future. In the event rail operations resume at this crossing, the Commission may reevaluate this exemption.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) On April 31, 2005, Lake Local filed a letter requesting, pursuant to Section 4511.63, Revised Code, an exemption for school buses from stopping at the grade crossing located at US 20 (518-643F) in Stony Ridge, Wood County.
- (2) On September 8, 2005, Commission staff filed an investigative report on the exemption request.
- (3) By Entry issued September 14, 2005, a public and evidentiary hearing was scheduled, a deadline was established for filing comments, and the Commission's Docketing Division was directed to publish notice of the hearing in a newspaper of general circulation in Wood County.
- (4) No comments were filed regarding this exemption request.
- (5) Notice of the hearing was published in the *Daily Sentinel-Tribune*.
- (6) The hearing was held on October 19, 2005, in Millbury, Ohio.
- (7) The request for an exemption from stopping for buses, school buses, and vehicles transporting a material or materials required to be placarded under 49 C.F.R. Parts 100-185, is warranted based upon the evidence.

ORDER


It is, therefore,

ORDERED, That an exemption, pursuant to Section 4511.63, Revised Code, be granted to allow buses, school buses, and any vehicle transporting a material or materials required to be placarded under 49 C.F.R. Parts 100-185, to proceed without stopping at the grade crossing located at US 20 (518-643F) in Wood County. It is, further,

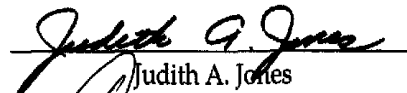
ORDERED, That ODOT place "Exempt" signs at the crossing and at other appropriate locations in advance of the crossing. It is, further,

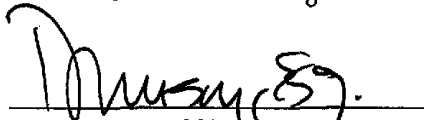
ORDERED, That a copy of this opinion and order be served on the Wood County Commissioners, Troy Township Trustees, mayor of Stony Ridge, mayor of Millbury, Superintendent of Eastwood Local School District, Superintendent of Lake Local School District, Ohio Petroleum Marketers Association, Ohio Trucking Association, National Tank Truck Carriers, Inc., ODOT District Office, Jim Jacobs, DDL, and all interested persons of record.

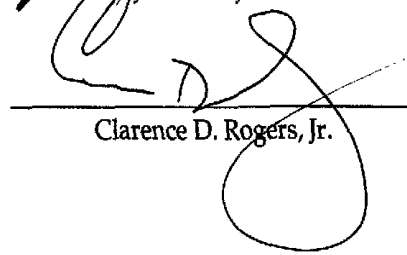
THE PUBLIC UTILITIES COMMISSION OF OHIO


Alan R. Schriber, Chairman


Ronda Hartman Fergus


Judith A. Jories

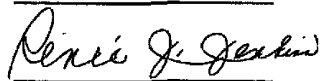

Donald L. Mason


Clarence D. Rogers, Jr.

SEF:ct

Entered in the Journal

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Renee J. Jenkins
Secretary