

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Adoption)
and Implementation of the)
Joint Railroad Safety Agreement) Case No. 97-1540-RR-UNC
for the CSX Transportation, Inc.)
B & O Rail Corridor.)

FINDING AND ORDER

The Commission finds:

- (1) By entry dated November 27, 1997, the Commission adopted an agreement entered into between staff, the Ohio Rail Development Commission and CSX Transportation, Inc. (CSX) calling for the installation of active warning devices at 39 public grade crossings on the CSX B&O rail line through northern Ohio. The agreement was entered into in response to the expected increase in rail traffic on this and several other Ohio rail corridors as a result of the acquisition of Consolidated Rail Corporation by CSX and Norfolk and Western Railway Company. In its order, the Commission directed that CSX complete all of these projects no later than November 25, 1998.
- (2) On December 30, 1998, it came to the attention of Commission staff that CSX may not have completed all of the agreed upon light and gate projects on its B&O line. At that time, staff requested CSX to report on the status of the B&O projects and when any unfinished projects would be completed. Further, on January 6, 1999, staff inspected all 39 project sites and determined that nine projects were not yet completed. Later that day, CSX reported to staff that it had yet to complete construction at nine B&O corridor projects and that they would be completed by January 27, 1999. CSX did not report at that time why it had failed to complete these projects in a timely manner, why it had failed to inform the Commission that these projects would not be completed by the Commission-ordered deadline and why it had failed to request an extension of time within which to complete these projects.
- (3) By entry dated January 14, 1999, the Commission directed CSX to show cause as to why it should not be assessed a forfeiture for its failure to complete the grade crossing projects as ordered.
- (4) A status conference was held on January 28, 1999. During this conference, a number of issues were raised by the parties, including, but not limited to, whether CSX violated the terms of the Commission's order, what aspects were violated, whether it was physically possible to complete construction at all locations with one year of the Commission order dated November 25,

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician Andrew Smith Date Processed 5/11/99

1997, and, assuming CSX did violate the order, what is the appropriate statutory reference and means of calculating any potential financial penalty. At the status conference, CSX reported that all of the grade crossing projects under the November 25, 1998 order had been completed.

- (5) On April 30, 1999, the staff and CSX filed a stipulation in this proceeding. Among its other terms, the stipulation provides for payment by CSX of \$600,000.00 in support of a special fund established for the purpose of enhancing public safety with respect to rail operations in this state. Further, the stipulation provides for the implementation of a protocol to ensure timely and appropriate communication between the staff and CSX regarding future grade crossing projects.
- (6) The stipulation resolves all issues raised in the Commission entry dated January 14, 1999 in this proceeding. The stipulation entered into between staff and CSX represents a fair and equitable settlement of this matter and should be approved and adopted by the Commission.
- (7) The Commission hereby directs the staff to consult with communities affected by CSX rail operations to determine the best uses of the special fund established under the stipulation.

It is, therefore,

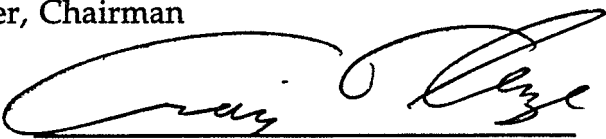
ORDERED, That the stipulation entered into between staff and CSX Transportation, Inc. is hereby adopted and approved. It is, further,

ORDERED, That a copy of this entry be served upon CSX Transportation, Inc.; the Board of Commissioners for Huron, Seneca, and Henry counties; the Board of Trustees for Loudon and Hopewell Townships in Seneca County and Richland Township in Defiance County; and the Mayors of Tiffin, Fostoria and North Baltimore.

THE PUBLIC UTILITIES COMMISSION OF OHIO


 Alan R. Schriber, Chairman


 Ronda Hartman Fergus

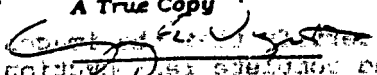

 Craig A. Glazer

Entered in the Journal
MAY 10 1999

GP:ct
 Judith A. Jones

A True Copy

Donald L. Mason


 Gary E. Vigorito
 Secretary

CASE NUMBER 97-1540-RR-UNC
CASE DESCRIPTION CXS TRANSPORTATION/B&O RAIL CORRIDO
DOCUMENT SIGNED ON May 10 1999
DATE OF SERVICE May 11, 1999

PERSONS SERVED

PARTIES OF RECORD

ATTORNEYS

APPLICANT

NONE

NEAL F. ZIMMERS
37 W. BROAD STREET
SUITE 1050
COLUMBUS, OH 43215

APPLICANT

CONSOLIDATED RAIL CORP.
MR. JOHN YOUNGDAHL, P.E.
2001 MARKET ST. P.O. BOX 41412
PHILADELPHIA, PA 19101-1412

ELBERT J. KRAM
BRICKER & ECKLER
100 SOUTH 3RD STREET
COLUMBUS, OH 43215

APPLICANT

CSX TRANSPORTATION
RANDY FREDERICK
4901 BELFORT ROAD, SUITE 130
JACKSONVILLE, FL 32256

PAMELA SAVAGE KORCHUN
LAW DEPARTMENT
500 WATER STREET
SPEED CODE J-150
JACKSONVILLE, FL 32202

APPLICANT

MR. R.P. SCHMIDT, V.P.-ENGINEERING
CSX TRANSPORTATION, INC. (S/C J350)
4901 BELFORT ROAD - SUITE 130
JACKSONVILLE, FL 32256

NONE

----- INTERESTED PARTIES -----

BOARD OF TRUSTEES/HOPEWELL TWNSHP
TR 112 & TR 113
TIFFIN,, OH 44883

NONE

