

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of a Request for the Downgrade )  
of the Warning Devices at the Grade ) Case No. 04-1770-RR-RCP  
Crossing at Harper Road, Located in the )  
Village of Solon, Cuyahoga County. )

FINDING AND ORDER

The Commission finds:

- (1) This case was initiated by a request from the city of Solon, Ohio (Solon) to remove the railroad crossing gates and warning lights at the Harper Road grade crossing (262-436Y), located in Solon, Ohio. In its request, Solon stated that Norfolk and Southern Railway (NS) owns the Harper Road crossing but the crossing has not been used for train activity for several years. Solon also indicated that the lights and gates at the crossing have been made inoperative and the concrete bases for the crossing gates have deteriorated. In addition, Solon acknowledged that, if its petition is approved and the gates and lights are removed and, in the future, rail operations are scheduled to be restored, the crossing gates and warning lights should be restored before such rail operations resume.
- (2) On January 10, 2005, staff filed its report of investigation on Solon's request. Staff indicated that Harper Road is a four lane street that is intersected by a single rail line. Staff stated that the Harper Road crossing surface, including the rails, ties, timbers, and approaches, has been completely paved over and the two standard flasher and gate assemblies at the crossing were rendered inoperative on September 14, 2004. Staff noted that west of the Harper Road grade crossing, NS provides rail service to customers; however, NS has issued end of track bulletins to all crews designating a milepost west of Harper Road as the end of the track. Staff further indicated that the railroad track one half mile east of Harper Road remains physically intact but, beyond that point, most of the rail, connections, and warning devices have been removed, preventing westbound access across Harper Road. Staff recommended that Solon's request be granted and that a portion of rail west of Harper Road should be removed to prevent eastbound access by rail equipment.

- (3) On February 14, 2005, a public hearing on the request was held in Solon, Ohio. At the hearing, David Hromco, director of public works for Solon, explained that Solon was requesting the Commission approve its request for removal of the gates and lights at the Harper Road crossing. Mr. Hromco testified that the crossing is completely paved over and the crossing gates and warning lights are inactive. Mr. Hromco also stated that the concrete bases for the gates and lights are deteriorating. No other public witnesses testified at the hearing.
- (4) Section 4907.49, Revised Code, provides, in part, that if a gate is erected, the gate shall not be abandoned nor an automatic bell or other mechanical device substituted for the gate, unless the Commission consents to the abandonment or substitution. In this case, the Harper Road grade crossing is paved over, including the rails, ties, timbers, and approaches and no trains use this crossing. Therefore, the Commission finds sufficient basis for granting Solon's request to downgrade the protective devices at this crossing. Accordingly, by March 31, 2005, NS should remove all crossing gates, warning lights, signage, supporting structures, and concrete bases from the Harper Road grade crossing. In addition, we agree that a section of rail should be removed west of Harper Road as this would prevent eastbound access by rail equipment across the Harper road crossing. Therefore, NS should, in coordination with a Commission rail inspector, remove a portion of rail west of Harper Road. Within seven days thereafter, NS should file a notice in this docket indicating that the gates, lights, signage, supporting structures, concrete bases, and rail have been removed. If in the future, NS seeks to restore rail service across the Harper Road grade crossing, NS should file a petition with the Commission and serve a copy of its request on the city of Solon.

It is, therefore,

ORDERED, That Solon's request to downgrade the safety devices at the crossing be granted. It is, further,

ORDERED, That, by March 31, 2005, Norfolk and Southern Railway remove the crossing gates, warning lights, supporting structures, concrete bases, and section of rail as directed in this finding and order. It is, further,

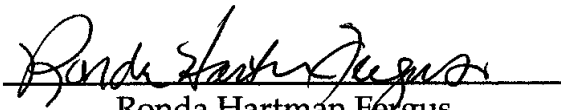
ORDERED, That Norfolk and Southern Railway file a notice in this docket upon completion of the removal of the gates and lights. It is, further,

ORDERED, That a copy of this entry be served on the mayor and city council of the city of Solon, Norfolk and Southern Railway and its counsel, and all other parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



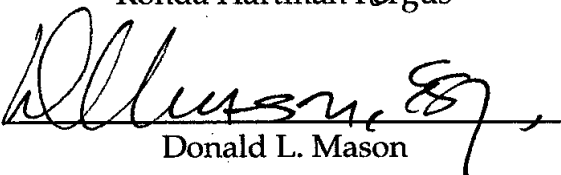
Alan R. Schriber, Chairman



Ronda Hartman Fergus



Judith A. Jones



Donald L. Mason



Clarence D. Rogers, Jr.

SEF:ct

Entered in the Journal

MAR - 2 2005



Renee J. Jenkins  
Secretary