

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ORIGINAL

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MAY 4 2004

Illinois Commerce Commission
RAIL SAFETY SECTION

CITY OF DES PLAINES, an Illinois Municipal Corporation,

Petitioner,

vs.

UNION PACIFIC RAILROAD COMPANY and WISCONSIN
CENTRAL LTD., and ILLINOIS DEPARTMENT OF
TRANSPORTATION,

Respondents.

T03-0102

In the matter of the petition of the City of Des Plaines for an order of the Illinois Commerce Commission to require the respondents to pay their allocable share of the costs of a major alteration of an above grade crossing in the City of Des Plaines, Cook County, Illinois.

MOTION FOR CONTINUANCE

NOW COMES WISCONSIN CENTRAL LTD. ("WCL"), through its attorney, Michael J. Barron, Jr. with its Motion for Continuance, and in support thereof states as follows:

1. In this docket, Petitioner is seeking an order directing the Respondent railroads to reconstruct and relocate the overhead bridge by which such railroads intersect Miner Street in the City of Des Plaines.
2. The docket is set for hearing on May 11, 2004.
3. The subject matter of the Petition ("Petition") in the above-referenced docket is also the subject matter of an appeal filed by the railroads and currently pending in Case Number 04-1516 in the United States Court of Appeals for the 7th Circuit ("7th Circuit Case").
4. In the 7th Circuit Case, the railroads are seeking declaratory relief and an order that the Commission's consideration of the subject matter in this docket herein has been preempted by the Interstate Commerce Commission Termination Act.

DOCKETED

MAY 4 2004

5. The railroads' opening brief in the 7th Circuit Case is due May 13, 2004, the Appellees' briefs are due June 14, 2004, and the railroads' reply brief is due June 28, 2004.

6. WCL believes that a Commission proceeding taking place while it is litigating the same subject matter with the same parties in a Federal Court is a commitment of resources that may not be necessary, and that for clarity, the Commission should continue proceedings in this docket until the Court of Appeals has ruled in the 7th Circuit Case.

7. Counsel for Union Pacific Railroad Company concurs in the relief sought in this motion.

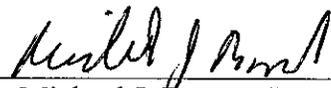
WHEREFORE, WCL respectfully requests that the Commission enter an order:

1. That continues proceedings in this docket for at least 120 days to give the Court of Appeals the opportunity to rule in the 7th Circuit Case; and
2. Grant further relief that the Commission deems just and equitable.

Dated: May 3, 2004

Respectfully submitted,

WISCONSIN CENTRAL LTD.

By: 
Michael J. Barron, Jr.
Counsel for Wisconsin Central Ltd.
CN
17641 S. Ashland Avenue
Homewood, IL 60430
Phone: (708) 332-3954
Fax: (708) 332-3052
ARDC #6228809

VERIFICATION

Michael J. Barron, Jr., being duly sworn, deposes and says that he is Counsel for Wisconsin Central Ltd., that he has read the foregoing Motion of Wisconsin Central Ltd., and that the contents thereof are true and correct to the best of his knowledge and belief.

Michael J. Barron, Jr.

Michael J. Barron, Jr.

Subscribed and sworn to
Before me this 3rd day of
May, 2004.

Marietta D Sullivan

Notary Public

My Commission Expires: Aug 28, 2005



STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

CITY OF DES PLAINES, an Illinois Municipal Corporation,

Petitioner,

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T03-0102

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Illinois Commerce Commission to require the respondents to pay their
allocable share of the costs of a major alteration of an above grade crossing
in the City of Des Plaines, Cook County, Illinois.

NOTICE OF FILING

To: Mr. Mack H. Shumate, Jr.
Union Pacific Railroad Company
101 North Wacker Drive, #1920
Chicago, IL 60606
Fax # (312) 777-2065

Ms. Stacey C. Hollo
Counsel
Illinois Department of Transportation
2300 S. Dirksen Parkway, Room 300
Springfield, IL 62764
Fax # (217) 324-4480

Mr. Paul Keller
Ancel, Clink, Diamond, Bush, DiCianni & Rolek P.C.
140 South Dearborn Street, 6th floor
Chicago, IL 60603
Fax # (312) 782-0943

PLEASE TAKE NOTICE that on May 3, 2004, I have sent for filing with the Illinois
Commerce Commission, 527 East Capitol Avenue, Springfield, IL 62701, the attached Motion of
Wisconsin Central Ltd.

WISCONSIN CENTRAL LTD.

By 
Michael J. Barron, Jr.
Counsel for Wisconsin Central Ltd.
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Homewood, IL 60430
Tel: 708-332-3954
Fax: 708-332-3052
ARDC 6228809

CERTIFICATE OF SERVICE

I, MICHAEL J. BARRON, JR., an attorney, certify that I served the foregoing Motion upon those made party to this proceeding by facsimile and by enclosing copies of the foregoing in envelopes addressed to the parties as set forth below, postage prepaid, and depositing the envelopes in the United States mail at 17641 S. Ashland Avenue, Homewood, IL on the 3rd day of May, 2004.



Michael J. Barron, Jr.

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Union Pacific Railroad Company
101 North Wacker Drive, #1920
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