

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

County of St. Clair, St. Clair County, Illinois,
Petitioner

Vs.

Kansas City Southern Railway Company, Union Pacific Railroad
Company and the Illinois Department of Transportation,
Respondents

T03-0059

In the Matter of the Petition of the County of St. Clair for an Order
compelling the building of a bridge carrying Mousette Lane,
County Highway 19, over the tracks of Kansas City Southern
Railway Company and the Union Pacific Railroad Company, and
that such Order prescribe the manner in which the expenses to
build said bridge shall be divided among the parties, and that said
Order direct the Illinois Department of Transportation to pay a
substantial part of the expenses for building said bridge from the
Illinois Grade Crossing Protection Fund.

ORDER

By the Commission:

On June 11, 2003, the County of Saint Clair ("County") filed a petition with the Illinois Commerce Commission ("Commission") naming therein the Kansas City Southern Railway Company ("KCS"), the Union Pacific Railroad Company ("UP"; "KCS and UP jointly referred to as "Railroads") and the Illinois Department of Transportation ("Department"), as Respondents. The County requests permission to construct a new bridge to carry Mousette Lane (County Highway 19) over tracks of the KCS and UP. The new structure would replace an existing highway-rail grade crossing. The petition further requests that the Grade Crossing Protection Fund pay a portion of the cost for the Mousette Lane structure.

On July 21, 2004, a hearing was held in this matter before a duly authorized Administrative Law Judge at the Commission's Springfield office. An appearance was entered by Commission's Rail Section staff. A motion for continuance, filed on July 15, 2004, by County was entered into the record and the hearing was continued to October 27, 2004.

On October 27, 2004, a hearing was held in this matter before a duly authorized Administrative Law Judge at the Commission's Springfield office. Counsel for the County, KCS and UP, as well as Department and Commission Rail Section staff

entered appearances. Darrell Cates, St. Clair County Engineer, provided testimony for the Petitioner. It was decided that the parties would meet to discuss the procedure necessary for the project to become part of the Commission's Five-Year Plan and become eligible for Grade Crossing Protection Fund participation. The Administrative Law Judge continued the hearing until December 8, 2004.

On December 8, 2004, a hearing was held in this matter before a duly authorized Administrative Law Judge at the Commission's Springfield office. The hearing was continued to February 16, 2005.

On February 16, 2005, a hearing was held in this matter before a duly authorized Administrative Law Judge at the Commission's Springfield office. Counsel for the County, KCS and UP, as well as Department and Commission Rail Section staff entered appearances. Mr. Darrell Cates, St. Clair County Engineer, provided testimony for the Petitioner, and Mr. David McKernan, UP Manager of Industry and Public Projects, provided testimony for the UP. At the conclusion of the hearing the case was marked "Heard and Taken".

Mousette Lane (CH 19) is a two-lane, two-way, urban collector roadway oriented in an approximate northeast-southwest direction. It crosses at a 90-degree angle with three railroad tracks, two UP and one KCS, at the southern edge of Centreville and adjoining or near the Bi-State Parks Airport and the Villages of Cahokia and Sauget, all in St. Clair County, Illinois. The existing highway-rail grade crossing is equipped with automatic flashing light signals and gates. The grade crossing is located approximately 660 feet to the west of an interstate highway overpass structure carrying I-255 over the same tracks of the Railroads. A manual traffic count conducted in 2003 (see Petitioner's Exhibit 6) showed a 12-hour count of 3,175 vehicles, including 325 tractor-trailers and 31 school buses. In addition, 109 minutes of train blockage of the crossing were recorded. A 24-hour, mechanical traffic count conducted in 2004 (see Petitioner's Exhibit 8) showed a count of 3,452 vehicles. Based on the Department's 1993 traffic counts of 2700, there has been approximately a 30% increase in vehicular traffic. [Previous Docket T95-0070 shows 1993 Average Daily Traffic (ADT) = 2700 in 1993. Per IDOT 2003 ADT = 4850. Per Petition T03-0059 ADT = 3600]. Train traffic includes six through trains per day and an indeterminate number of switching movements over the existing crossing. Adverse travel at the crossing is approximately 5.2 miles (per Petitioner's Exhibit 9) in both directions, creating problems for emergency response when trains occupy the crossing. Vehicles have been observed driving around lowered crossing gates when there is no train in the intersection, as noted in Petitioner's Exhibit 6.

The Petitioner proposes to replace the existing highway-rail grade crossing with a vehicular overpass that will carry Mousette Lane over tracks of the Railroads. The proposed structure is a 243(±) foot long, two-span, steel plate girder superstructure on concrete piers and a concrete deck with a thirty-foot (30') wide travel surface (one lane in each direction), as shown in Petitioner's Exhibit 11. The St. Clair County Transportation Board fully supports the project and has committed to funding their portion of the proposed structure, as noted in Petitioner's Exhibit 10.

The County has applied for assistance from the Grade Crossing Protection Fund ("GCPF") for the construction portion of the project. Construction is estimated to cost \$3,318,000, and the County is requesting assistance from the GCPF equivalent to 60% of that amount. Commission staff has indicated that a total of \$1,990,800 in assistance from the GCPF is available for the project. \$995,400 is available in fiscal year (FY) 2005, and \$995,400 in FY 2006. The UP and the KCS have agreed to jointly fund 5% of the cost of construction and will divide those costs according to the number of tracks each has through the crossing; two-thirds of 5% to UP and one-third of 5% to KCS. The County will pay all remaining project costs.

Upon approval by the Commission, the County anticipates beginning right-of-way acquisition in summer 2005, bid letting for construction in 2006, and completion of construction in 2007. Construction is estimated to take twelve (12) months.

The Commission, being fully advised in the entire record herein, finds that:

- (1) the Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) the recitals of fact, as set forth in the prefatory portion of this Order; are true and correct and are hereby adopted as findings of fact;
- (3) permission should be granted to replace the existing Mousette Lane (CH 19) highway-rail grade crossing with a vehicular overpass;
- (4) the project should be completed within twelve (12) months from the date the contract is awarded, but no later than December 31, 2007;
- (5) the cost for the aforementioned improvements should be divided among the parties and the Grade Crossing Protection Fund of the Motor Fuel Tax Law as required by law;
- (6) it is fair and reasonable that the Grade Crossing Protection Fund, St. Clair County, the Union Pacific Railroad Company and the Kansas City Southern Railway Company, be required to bear their respective portions of the proposed project cost as outlined in Appendix 1 of this Order;
- (7) 625 ILCS 5/18c-1701 and 1704 require each "person", as defined by Section 18c-1104, to comply with every regulation or order of the Commission. These sections further provide that any person who fails to comply with a Commission regulation or order shall forfeit to the state not more than \$1,000 for each such failure, with each day's continuance of the violation being considered a separate offense. While the Commission expects all parties to comply with this Order in all matters addressed herein and in a timely manner, the Commission advises that any failure to comply may result in the assessment of such sanctions.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission the St. Clair County is hereby required and directed to proceed with construction of the Mousette Lane (CH 19) vehicle overpass structure.

IT IS FURTHER ORDERED that the proposed structure shall comply with 92 Illinois Administrative Code, Part 1500 and the vertical clearance requirements of the Illinois Commercial Transportation Law (625 ILCS 5/18c-7401(8)).

IT IS FURTHER ORDERED that the existing Mousette Lane CH 19 highway-rail grade crossing (AAR/DOT # 296 042G, milepost 295.93-SSWNG) should be closed, barricaded and abolished when the new Mousette Lane overpass structure is open to public traffic.

IT IS FURTHER ORDERED that contractor insurance and railroad liability insurance will be required as specified in Illinois Department of Transportation "Standards and Specifications for Road and Bridge Construction", Section 107.

IT IS FURTHER ORDERED that the cost of making the improvements herein required shall be divided among the parties and the Grade Crossing Protection Fund of the Motor Fuel Tax Law, as set forth in Appendix 1 of this Order.

IT IS FURTHER ORDERED that all bills for expenditures authorized to be reimbursed from the Grade Crossing Protection Fund shall be submitted to the Illinois Department of Transportation, Region 4, District 8, 1102 Eastport Plaza, Collinsville, Illinois 62234. The Department shall send a copy of all bills to the Director of Processing and Information, Transportation Division of the Commission. The final bill for expenditures from each party shall be clearly marked "Final Bill". All bills shall be submitted no later than twenty-four (24) months from the date of this, or any subsequent, Commission Order on this docket. The Department shall, at the end of the 24th month from the Commission Order date, de-obligate all residual funds accountable for installation cost for this project.

IT IS FURTHER ORDERED that St. Clair County shall within one hundred twenty (120) days from the date of this Order furnish to the Illinois Department of Transportation, the Union Pacific Railroad Company, and the Kansas City Southern Railway Company, for their approval, two (2) copies of the detailed estimate of costs and two (2) copies of the final construction plans applying to construction of the Mousette Lane (CH 19) structure.

IT IS FURTHER ORDERED that the Illinois Department of Transportation, the Union Pacific Railroad Company, and the Kansas City Southern Railway Company shall, within thirty (30) days of their receipt of the aforesaid detailed cost estimate and final construction plans, furnish to the Commission a statement of their approval or disapproval thereof, this for the information of the Commission.

IT IS FURTHER ORDERED that St. Clair County, the Union Pacific Railroad Company, and the Kansas City Southern Railway Company, shall complete and submit the Project Manager Information portion of the Project Status Report sheet.

IT IS FURTHER ORDERED that St. Clair County, or its designated representative,

shall, at six (6) month intervals from the date of Commission Order subsequent to this Agreement, submit to the Director of Processing and Information, Transportation Bureau of the Commission, a Project Status Report, regarding the progress it has made toward completion of the work herein required. Each Project Status Report shall include the Commission Order number, the Order date, the project completion date as noted in the Order, crossing information (inventory number and railroad milepost), type of improvement, and the name, title, mailing address, phone number, facsimile number, and electronic mailing address of the County Project Manager.

IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall within thirty (30) days of the completion of the work herein required, submit a completely updated United States Department of Transportation Inventory Form (#6180.71) to the Federal Railroad Administration, the Chief of Data Services at the Illinois Department of Transportation, and the Director of Processing and Information, Transportation Bureau of the Commission.

IT IS FURTHER ORDERED that St. Clair County be, and it is hereby required and directed to submit a written notice, to the Director of Processing and Information, Transportation Division of the Commission, of the date the work herein required of it has been completed. Said notice shall be submitted within five (5) days after said completion date. The County shall also notify the Railroads upon completion of the project.

IT IS FURTHER ORDERED THAT any person making a Request for an Extension of Time up to 30 days to complete a project ordered by the Commission must file a request with the Director of Processing and Information no later than 14 days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request.

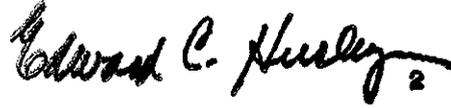
IT IS FURTHER ORDERED THAT any person making a Request for an Extension of Time that exceeds 30 days must file a Petition For Supplemental Order with the Director of Processing and Information no later than 21 days in advance of the scheduled deadline. The Commission will decide Petitions For Supplemental Orders.

IT IS FURTHER ORDERED THAT requests For Extension Of Time and Petitions For Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the project will be completed. Prior to submitting a Request For Extension Of Time or a Petition For Supplemental Order, the person must notify the Commission's Rail Safety Program Administrator that it is unable to complete the project within the ordered timeframe.

IT IS FURTHER ORDERED THAT the Commission or its Administrative Law Judge reserves the right to deny Petitions For Supplemental Orders and Requests For Extension Of Time, if the reason(s) supporting the request is (are) insufficient or where it appears the person has not made a good faith effort to complete the project within the allotted time. Failure of the Commission or Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS FURTHER ORDERED that, subject to Section 18c-2201 and 18c-2206 of the Law, this is a final decision subject to the Administrative Review Law.

By Order of the Commission this 17th day of May, 2005.



Chairman

JUDGE
SECTION CHIEF
<i>DWS</i>
ORDERS SUPERVISOR

- Appendix 1 -

Mousette Lane Highway Overpass Project
Division of Cost

WORK ITEM	ESTIMATED CONSTRUCTION COST	GCPF ¹	ST. CLAIR COUNTY ²	UNION PACIFIC ³	KANSAS CITY SOUTHERN ⁴
Construct new Highway Overpass to Replace Existing Highway-Rail Grade Crossing	\$3,318,000	(30%) \$1,990,800	Remainder	\$110,600	\$55,300
TOTALS	\$3,318,000	\$1,990,800	\$1,161,300	\$110,600	\$55,300

Notes:

¹ Total Grade Crossing Protection Fund (GCPF) assistance shall not exceed \$1,990,800; \$995,400 shall be authorized with this Order; The Petitioner shall be required to file a Supplemental Petition to request the remainder of the GCPF assistance; the Supplemental Petition shall include evidence to prove that the previous GCPF contribution to the project has been expended. Any construction costs above the estimated amount of \$3,318,000 will be divided between the GCPF, the County, the UP and the KCS in the same percentages noted above, upon submittal and review of evidence to support the additional cost and approval by the Commission.

² County responsible for all future operating and maintenance costs associated with the new Mousette Lane (CH 19) grade separation structure.

³ UP assistance not to exceed \$110,600, except as directed in Note #1, but in no case shall assistance exceed two-thirds of 5% of the total actual construction costs.

⁴ KCS assistance not to exceed \$55,300, except as directed in Note #1, but in no case shall assistance exceed one-third of 5% of the total actual construction costs.

