

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

**VILLAGE OF FOX RIVER GROVE, ILLINOIS,** )

Petitioner, )

v. )

**UNION PACIFIC RAILROAD COMPANY (UP)** )  
**and the STATE OF ILLINOIS, DEPARTMENT OF** )  
**TRANSPORTATION (IDOT),** )

**Docket No. T04-0075**

**Respondents.** )

Petition to 1) widen the existing concrete pavement )  
on US Route 14 (Northwest Highway) at Algonquin )  
Road to the south to provide a 150' right turn lane )  
for eastbound to southbound right turning vehicles; )  
2) reconfigure the existing train station parking lot )  
on the south side of US Route 14; 3) widen the radius )  
of the southwest corner of the intersection of US Route )  
14 and Algonquin Road to provide a wider pavement )  
area for right turns by single-unit trucks and buses; )  
4) relocate traffic and railroad signal posts and )  
gate arm behind proposed curb and gutter; 5) replace )  
wiring for said signal posts; 6) move the existing )  
conduit and wiring for the traffic signal interconnect )  
with Lincoln Avenue along the right turn lane and )  
right turn taper length; 7) replace the detector )  
loops on the west leg at the US Route 14 and )  
Algonquin Road intersection; and 8) install a longer )  
crossing gate at the intersection of US Route 14 )  
and Algonquin Road. )

**MOTION TO DISMISS PETITION WITHOUT PREJUDICE**

NOW COMES Petitioner, Village of Fox River Grove ("Village"), by and through its attorneys, Peter M. Rosenthal, Judith N. Kolman and Rosenthal, Murphey & Coblenz, and

respectfully moves to dismiss its Petition now pending before the Illinois Commerce Commission, without prejudice, for the reasons set forth as follows:

1. On May 1, 2005, following the evidentiary hearings that were held in this proceeding on April 28 and April 29, 2005, a new Village President and two new Village Trustees took office in the Village of Fox River Grove. The newly constituted Village Board of the Village of Fox River Grove determined to undertake a re-evaluation as to whether it continued to be in the Village's interest to expend Village Funds and devote staff time in pursuing approval of the installation of a right turn lane for eastbound traffic on U.S. Route 14 that would be turning southbound onto Algonquin Road.

2. Subsequent to the April 28<sup>th</sup> and 29<sup>th</sup> hearings before the Illinois Commerce Commission Administrative Law Judge, the Commission entered an order, by which the Commission Staff and the parties were ordered to participate in a joint settlement conference.

3. On or about June 7, 2005, the parties met, without their attorneys, to discuss settlement. The settlement discussions concerned primarily whether the intersection of Algonquin Road and U.S. Route 14, north of the Union Pacific Railroad Tracks, could be re-designed to more safely accommodate trucks and other vehicles which have a wheel base of fifty-five feet ("WB-55 Vehicles"). No agreement was reached as to how and whether the intersection could be redesigned to more safely accommodate WB-55 vehicles and as a result the parties could not agree upon a proposed settlement.

4. On or about June 23, 2005, the Village filed the "Joint List of Contested Issues" with the Commission. The list demonstrates that there are a number of issues that will need to be resolved by the Commission.

5. At the Village Board's next scheduled Village Board meeting on July 21, 2005, the President and Board of Trustees, after thoroughly evaluating the Village's position and the positions of the Union Pacific Railroad Company and the Illinois Department of Transportation in this matter, determined that it was not in the best interests of the Village to pursue ICC approval of the proposed installation of the right turn lane on U.S. Route 14 and the modifications that would need to be made to the Union Pacific Railroad's Algonquin Road grade crossing if the right turn lane was to be installed. In light of the number of contentious and unresolved issues among the parties, the President and Village Board have deemed that it is not in the Village's best interests at this time to expend Village funds and devote staff time in pursuing approval of the installation of a right turn lane for eastbound traffic on U.S. Route 14 that would be turning southbound onto Algonquin Road. Primary factors in this determination were the failure of the Illinois Department of Transportation ("IDOT") to provide a commitment to the Village that IDOT would acquire the land needed for the installation of the right turn lane if ICC approval was given; that U.S. Route 14 is a state highway and that IDOT, and not the Village, has the primary responsibility for providing for the safe movement of motor vehicles along U.S. Route 14 through the Village; and that the ICC and Union Pacific railroad have the responsibility for providing for the safety of motor vehicles utilizing the Algonquin Road grade crossing.

WHEREFORE, Petitioner, Village of Fox River Grove, requests this Honorable Commission to enter an order dismissing its Petition now pending before the Commission, without prejudice.

Respectively submitted,  
Village of Fox River Grove

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