

the necessary federal authority to construct the rail line, CWRC is now waiting only for an ICC order regarding the at-grade crossings at issue in this docket before beginning construction. In support of this motion, CWRC states as follows:

1) AEGC, on behalf of itself and its subsidiary, CWRC, filed a petition with the STB on February 5, 2004, for common carrier authority to construct and operate a new thirteen-mile rail line in and around Coffeen, Illinois. The STB proceeding was captioned “STB FD No. 34435, Ameren Energy Generating Co.- Construction and Operation - In Coffeen and Walshville, Illinois.”

2) On December 14, 2004, CWRC initiated the instant proceedings, to petition the ICC for an order authorizing CWRC’s design plans for construction and maintenance of certain railroad crossings in and around Coffeen, Illinois.

3) Evidentiary hearings were held on May 2, 2005, June 9, 2005, and July 14, 2005. CWRC filed its Proposed Order on August 23, 2005. The parties gave final arguments and the record was marked heard and taken on August 25, 2005.

4) The Administrative Law Judge has not yet issued a proposed order in this matter pursuant to 83 Ill. Admin. § 200.820, nor has the Commission issued its final decision.

5) On February 17, 2006, the STB entered its decision in STB Finance Docket No. 34435. The STB Decision authorizes AEGC and CWRC to construct and maintain the thirteen-mile rail line identified as Route A in this docket and in STB Finance Docket No. 34435. This decision will become effective on March 26, 2006.

6) Section 200.875(c) of the Commission's Rules indicates that an Administrative Law Judge or the ICC has discretion, "for good cause shown," to admit late-filed exhibits into evidence after the record has been marked heard and taken and before the issuance of a final order by the Commission. 83 Ill. Admin. Code § 200.875(c).

7) The STB Decision indicates that, when the decision becomes final on March 26, 2006, CWRC and its parent, AEGC, have the appropriate federal authority to construct, operate and maintain the subject rail line in this case.

8) This grant of federal authority demonstrates the immediate need and suitability of a final order in ICC Docket T04-0084, without further delay, thus establishing good cause for admission of the STB Decision into the evidentiary record.

WHEREFORE, Coffeen and Western Railroad Company respectfully moves for admission of the attached February 17, 2006, Decision of the Surface Transportation Board into the evidentiary record as a late-filed exhibit, "Exhibit 4.0."

Dated: February 22, 2006

Respectfully submitted,

COFFEEN AND WESTERN RAILROAD
COMPANY

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CERTIFICATE OF SERVICE

I, Laura M. Earl, certify that on February 22, 2006, I served a copy of the foregoing Motion to Admit Late-Filed Exhibit by U.S. Mail to the individuals on the Commission's official Service List for Docket T04-0084.

/s/ Laura M. Earl

Laura M. Earl