

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

The City of Alton, Illinois, by its Mayor, Donald E. Sandidge, :
Petitioner, :
vs. :
Norfolk and Western Railway Company , the County of :
Madison and the Department of Transportation of the State :
of Illinois :
Respondent. : T97-0050
Petition for permission to construct an overhead grade :
crossing of Indiana Avenue, MFT Section # 97-00208-010 :
GS, Structure #060-6110, over the tracks of the Norfolk :
Southern Corporation at a location approximately 1/3 mile :
north of Illinois Route 143, Alton, Madison County, Illinois. :

SECOND SUPPLEMENTAL ORDER

By the Commission:

On December 17, 1997, the Illinois Commerce Commission ("Commission") entered its Order in this matter that, among other things, granted permission to the City of Alton ("City") to construct a new grade separation structure to carry Indiana Avenue over the tracks of the Norfolk Southern Railway Company. The cost for the structure, estimated to be \$7,208,118, was divided 60% in an amount not to exceed \$4,324,871, to the Grade Crossing Protection Fund ("Fund") with all remaining cost being borne by the City of Alton. The amount to be paid by the Fund was limited to \$2,162,435 until further Order of the Commission. This work was required to be completed within three (3) years from the date of the Order.

On March 7, 2001, the Commission entered its Supplemental Order granting an extension of time to and including December 31, 2004, within which to complete the work as required by the original Order. In addition, the Supplemental Order also amended the cost and cost division by including cost associated with the adjustment of overhead utility lines and an underground water line that was not contemplated at the time of the original Order. These unexpected costs (\$431,164) were added to the total cost and divided between the Fund (\$258,698) and the parties in the same percentage as contained in the original Order; however, the cost for the utility adjustments was added to the final Fund allotment for the project.

On May 13, 2002, the Rail Safety Section of the Commission recommends that the final Fund payment be obligated through this Second Supplemental Order as required by the original and Supplemental Orders. Per the requirements of the original and Supplemental Orders, it was the Commission's intent to issue a further Order(s) increasing the maximum amount to be paid toward the highway overpass project from the Fund to \$4,583,569, by the completion of the project or earlier, either in a single increase or multiple increases equal up to the initial limiting amount. This Second Supplemental Order increases the Fund contribution to a new maximum total of \$4,583,569, an increase of \$2,421,134. Staff requests that the increase in fund participation to the maximum limiting amount as required by the original and Supplemental Orders, be granted without hearing.

The Commission, having given due consideration to the entire record herein, finds that:

- 1) the Commission has jurisdiction of the parties hereto and the subject matter herein;
- 2) the recitals of fact as set forth in the prefatory portion of this Second Supplemental Order are true and correct and are hereby adopted as findings of fact;
- 3) finding (5) of the original Order and Supplemental Order should be amended as listed below:

| Improvement | Estimated Cost | GCPF | City |
|--|-----------------------|--------------------|------------------|
| Construction cost of new highway overpass. | \$ 5,157,146 | 60% \$3,094,288 | Remainder |
| Contingencies | \$ 773,572 | 60% \$464,143 | Remainder |
| Design & Construction Engineering | **903,700 | 60% \$542,220 | Remainder |
| Right of Way | \$ 263,700 | 60% \$158,220 | Remainder |
| Right of Way-Railroad | \$ 50,000 | 60% \$30,000 | Remainder |
| Railroad Force Account | \$ 60,000 | 60% \$36,000 | Remainder |
| Utility adjustments | \$ 431,164 | 60% \$258,698 | Remainder |
| Total | \$7,639,282 | \$4,583,569 | Remainder |

** the engineering cost can be broken down further in the following manner:

| | |
|-----------------------------|------------------|
| Preliminary Bridge Plan | \$ 26,700 |
| Soils investigation | \$ 17,600 |
| Environmental Investigation | \$ 40,000 |
| Right of way Engineering | \$ 18,000 |
| Plans and Specifications | \$343,500 |
| Construction Engineering | <u>\$457,900</u> |
| | \$903,700 |

all cost of future maintenance of the new structure shall be borne by the City of Alton except for damage caused by railroad derailment, collision or accident which will be borne by the railroad;

the City of Alton has been assessed the remaining 40% of the cost for the highway overpass structure, it has entered into an intergovernmental agreement with Madison County whereby Madison County is paying ½ of the City's 40% share of the project cost; the City of Alton is also attempting to obtain federal funds to pay a portion of their share of the aforementioned costs.

- 4) all other terms and conditions of the original and Supplemental Orders dated December 17, 1997 and March 7, 2001, are both hereby affirmed and shall remain in full force and effect except as herein modified.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that Finding (5) of the Supplemental Order pertaining to the cost division for the construction of the Indiana Avenue highway overpass structure be, and it is hereby, amended and that Finding (3) as contained in this Second Supplemental Order be substituted therefore.

IT IS FURTHER ORDERED that all other terms and conditions of the original Order and Supplemental Order, entered on December 17, 1997, and March 7, 2001, are both hereby affirmed and shall remain in full force and effect except as herein modified.

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

By Order of the Commission this 19th day of June, 2002.

Richard S. Mathias³

Chairman

| | |
|-------------------|--------------------|
| JUDGE | <i>[Signature]</i> |
| SECTION CHIEF | |
| ORDERS SUPERVISOR | <i>[Signature]</i> |



ILLINOIS COMMERCE COMMISSION

June 28, 2002

The City of Alton, Illinois, by its Mayor, Donald E. Sandidge,
Petitioner,

vs.

Norfolk Southern Corporation and Department of Transportation of
the State of Illinois
Respondent.

T97-0050

Petition for permission to construct an overhead grade crossing of
Indiana Avenue, MFT Section # 97-00208-01-GS, Structure #060-
6110, over the tracks of the Norfolk Southern Corporation at a
location approximately 1/3 mile north of Illinois Route 143, Alton,
Madison County, Illinois.

TO ALL PARTIES OF RECORD:

Dear Sir/Madam:

The Second Supplemental Order was entered by the Commission in the above-entitled matter on **June 19, 2002**. The date on the previous letter was inadvertently typed as May 22, 2002. We apologize for any inconvenience.

Very truly yours,

Kevin L. Sharpe
Director of Processing
and Information

ss

Joseph O'Brien, Administrative Law Judge
Robert Berry, Rail Safety Staff