

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

The Village of Hartford, Madison County, Illinois, :  
Petitioners, :  
 :  
Vs. :  
 :  
Norfolk Southern Railway, a Virginia Corporation; Kansas City :  
Southern Railway; Union Pacific Railway; and State of Illinois, : T08-0038  
Department of Transportation : Cons w/  
Respondents. : T08-0039  
 :  
Petition for an Order of the Illinois Commerce Commission :  
authorizing the establishment of a grade in Hartford, Madison County, :  
Illinois as a public grade crossing, and for determination by the Illinois :  
Commerce Commission of the appropriate level of warning devices :  
and division of the costs among the parties. :

**INTERIM ORDER**

By the Commission:

**PROCEDURAL HISTORY**

On February 13, 2008, the Village of Hartford ("Village") filed Petitions in the above captioned matters regarding the Robbins Road highway-rail grade crossing of the Norfolk Southern Railway Company's ("NS") single track ("NS crossing"), designated as AAR/DOT #328 022K, railroad milepost 18.85-ITP, and the Robbins Road highway-rail grade crossing of the Union Pacific Railway Company's ("UP") and The Kansas City Southern Railway Company's ("KCS") tracks ("UP/KCS crossing"), designated as AAR/DOT #294 457F, railroad milepost 265.62-SSWNAO, located in the Village of Hartford, Madison County, Illinois (jointly referred to as the "crossings"). The Village requested the Illinois Commerce Commission ("Commission") to approve the re-designation of the subject grade crossings from private to public, determine the appropriate warning devices for each of the two crossings, establish an appropriate division of cost for installation of the warning devices, and establish a time frame for any ordered improvements.

Pursuant to notice given in accordance with the Law and the rules and regulations of the Commission, on March 20, 2008, a Pre-Hearing Conference before a duly authorized Administrative Law Judge ("ALJ") of the Commission was held in conjunction with both Dockets T08-0038 and T08-0039. All Parties, including the Village, NS, UP and KCS, appeared by legal counsel. The Illinois Department of Transportation ("Department" or "IDOT") appeared by counsel. Joe VonDeBur and Richard Daniels, Railroad Safety Specialists, both represented Commission Staff ("Staff"). Following extensive discussion, the Parties and Staff reported to the Administrative Law Judge that a tentative agreement on all issues raised in the

Petitions had been reached. The Parties and Staff orally moved to consolidate Dockets T08-0038 and T08-0039. The Motion was granted by the ALJ. The Parties then requested that an Interim Order be entered designating the subject crossings to be public highway-rail grade crossings as defined in 92 Ill. Adm. Code Part 1535.100, and that the matter be continued to May 15, 2008 for further proceedings herein.

### **PETITIONER VILLAGE OF HARTFORD'S STIPULATED EVIDENCE**

The NS crossing on Robbins Road has a train volume of 4 freight trains per day at a maximum operating ("timetable") speed of 15 miles per hour ("mph"), while the UP/KCS Robbins Road crossing has a combined train volume of approximately 30 freight trains per day at a timetable speed of 50 mph and 10 passenger trains per day at a timetable speed of 79 mph. Robbins Road currently has annual average daily traffic ("AADT") volume of 50 vehicles per day (90% trucks) at a maximum speed of 30 mph. The twenty (20) year AADT projection for Robbins Road is 1,500 vehicles per day.

In order to establish that Robbins Road is currently a public roadway, the Village, as an attachment to its Petition, submitted an Annexation Ordinance executed by the Village of Hartford Board of Trustees on February 5, 2002. The Ordinance shows that the Village has annexed certain properties as described in Petitioner's Exhibit A, attached to the Petitions. The areas and properties annexed by the Village include Robbins Road. The Village has also filed proposed plans for the improvement of Robbins Road. Proposed improvements include roadway widening and resurfacing, as well as new and wider railroad-highway crossing surfaces. The proposed roadway improvements construction, being paid for with Village funds and assistance from IDOT (utilizing federal funds), are scheduled to begin in August 2008.

The Village noted that a related project is underway to expand the nearby ConocoPhillips refinery, which involves the hauling of oversize loads ("heavy hauls") over Robbins Road and the NS and UP/KCS crossings. These heavy hauls are to begin in early April 2008 and will occur intermittently through the fall of 2010. The NS, UP and KCS are aware of the ConocoPhillips project, and are handling the necessary legal issues related to that project and the heavy hauls, including the requirement for flagging during each movement over each railroad's respective track. Until such time that a final Order is entered herein, and permanent crossing surfaces and warning devices are installed at the crossings, the Parties agree that it will be necessary to provide temporary crossing warning devices at said crossings, and to remove and replace those temporary crossing warning devices from time to time to accommodate the heavy hauls through and over the crossings during the construction and expansion of the ConocoPhillips refinery.

### **RESPONDENT RAILROADS' STIPULATED EVIDENCE**

The NS, UP and KCS ("Railroads") do not dispute the legitimacy of the re-designation of the crossings from private to public, and request that the Commission approve the requested re-designation as soon as possible. The Railroads agree with Staff's preliminary recommendations regarding warning device installation and

maintenance (set forth below), and will comply upon the issuance of a final Commission Order. The Railroads are dealing directly with the Village regarding the legal issues involved in the roadway widening and surface installations.

The UP and the KCS have an existing agreement in place regarding the maintenance and operations of their tracks in the vicinity of the UP/KCS crossing.

### **STAFF'S POSITION**

Staff believes that an Interim Order should be entered herein and should include the following recommendations: The NS crossing is currently equipped with reflective crossbuck warning signs, reflective striping, and YIELD signs ("Warning Signs"). The NS should maintain the existing warning signs. The UP and KCS should install and maintain reflective crossbuck warning signs, reflective striping, STOP signs and "2 TRACKS" signs. The Village should install and maintain Highway-Rail Grade Crossing Advance Warning signs for each crossing. All warning signs and installation should conform to the requirements of 92 Illinois Administrative Code, Part 1535, and the standards established in the Manual on Uniform Traffic Control Devices ("MUTCD"). The NS and the UP should submit revised FRA Inventory Forms for the crossings, AAR/DOT #328 022K and AAR/DOT #294 457F, respectively. The inventory forms should include updated information for all fields in Parts I, II, III and IV. All heavy haul movements will require flagging. A final decision on the appropriate permanent warning devices required at the UP/KCS crossing will be determined upon further hearing scheduled by the Administrative Law Judge in this docket.

Staff also believes that the NS and UP should remove the crossing warning signs at their respective crossings of Robbins Road on the day that each of the heavy hauls occur, and provide flaggers at both of the Robbins Road crossings. Following the completion of each of the heavy haul movements, the crossing warning signs should be reinstalled by the railroads. The cost for the railroads to temporarily remove the crossing warning signs, provide flaggers at the crossings, and reinstall the crossing warning signs should be paid for by the Village of Hartford.

### **FINDINGS AND ORDERING PARAGRAPHS**

The Commission, having given due consideration to the entire record herein, and the stipulations and agreements of the Parties and Commission Staff, and being fully advised in the premises is of the opinion and finds that:

- (1) The Commission has jurisdiction of the subject matter hereof and the Parties hereto;
- (2) The recitals of fact and stipulated evidence set forth in the prefatory portion of this Interim Order are supported by the evidence of record and are hereby adopted as findings of fact;
- (3) The Robbins Road crossing of the Norfolk Southern Railway Company's single track is identified as AAR/DOT #328 022K;

- (4) The Robbins Road crossing of the Union Pacific Railway Company's track and the Kansas City Southern Railway Company's track is identified as AAR/DOT #294 457F;
- (5) Robbins Road is a public roadway that extends in a general east-west direction beyond the Norfolk Southern Railway Company's single track, the Union Pacific Railway Company's track and The Kansas City Southern Railway Company's track. Therefore, the Petitioners request that the Robbins Road crossings be declared to be public highway-rail grade crossings as defined in the 92 Illinois Administrative Code, Part 1535.100;
- (6) The Norfolk Southern Railway Company and the Union Pacific Railway Company should file revised and fully accurate FRA Inventory Forms for the Robbins Road crossings, AAR/DOT #328 022K and AAR/DOT #294 457F, respectively;
- (7) The Norfolk Southern Railway Company should, at its expense, maintain the existing reflective crossbucks (MUTCD R15-1), reflective striping, and YIELD signs (MUTCD R1-2);
- (8) The Union Pacific Railway Company and/or The Kansas City Southern Railway Company should, at their expense, install and maintain reflective crossbucks (MUTCD R15-1), reflective striping, STOP signs (MUTCD R1-1), and "2 TRACKS" signs (MUTCD R15-2);
- (9) The Village of Hartford should, at its expense, install and maintain Highway-Rail Grade Crossing Advance Warning signs (MUTCD W10-1) on both highway approaches to each crossing;
- (10) All warning signs must conform to the requirements and specifications of 92 Illinois Administrative Code and the Manual on Uniform Traffic Control Devices;
- (11) The Norfolk Southern Railway Company and the Union Pacific Railway Company should remove the crossing warning signs at their respective crossings of Robbins Road on the day that each of the heavy haul movements occur, and provide flaggers at both of the Robbins Road crossings. Following the completion of each of the heavy haul movements, Norfolk Southern Railway Company and the Union Pacific Railway should reinstall the crossing warning signs. The cost for the railroads to temporarily remove the crossing warning signs, provide flaggers at the crossings, and reinstall the crossing warning signs should be paid for by the Village of Hartford.

IT IS THEREFORE ORDERED that the Robbins Road highway-rail grade crossing of the Norfolk Southern Railway Company's track, designated as AAR/DOT #328 022K, railroad milepost 18.85-ITP, and the Robbins Road highway-rail grade crossing of the

Union Pacific Railway Company's track and The Kansas City Southern Railway Company's track, designated as AAR/DOT #294 457F, railroad milepost 265.62-SSWNAO, located in the Village of Hartford, Madison County, Illinois, are each hereby declared to be public highway-rail grade crossings.

IT IS FURTHER ORDERED that the Norfolk Southern Railway Company and the Union Pacific Railway Company shall, within 30 days from the date of this Order, file revised and fully accurate United States Department of Transportation Inventory Forms (#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 for each of the Robbins Road crossings, AAR/DOT #328 022K and AAR/DOT #294 457F, respectively.

IT IS FURTHER ORDERED that the Norfolk Southern Railway Company shall, at its expense, maintain the existing reflective Crossbucks warning signs (MUTCD R15-1), reflective striping, and YIELD signs (MUTCD R1-2) at the Robbins Road crossing of its track.

IT IS FURTHER ORDERED that, within 30 days from the date of this Order, the Union Pacific Railway Company shall, at its expense, install and maintain reflective Crossbucks warning signs (MUTCD R15-1), reflective striping, STOP signs (MUTCD R1-1), and "2 TRACKS" signs (MUTCD R15-2) at the Robbins Road crossing of the Union Pacific Railway Company's track and The Kansas City Southern Railway Company's track.

IT IS FURTHER ORDERED that, within 30 days from the date of this Order, the Village of Hartford shall, at its expense, install and maintain Highway-Rail Grade Crossing Advance Warning signs (MUTCD W10-1) on both highway approaches of each Robbins Road crossing.

IT IS FURTHER ORDERED that all signage shall conform to the requirements of 92 Illinois Administrative Code Part 1535, and the recommendations and specifications of the Manual on Uniform Traffic Control Devices.

IT IS FURTHER ORDERED that the Norfolk Southern Railway Company, the Union Pacific Railway Company and the Village of Hartford shall each, within 5 days after completion, notify the Commission in writing the required warning signs have been installed.

IT IS FURTHER ORDERED that the Village of Hartford, the Norfolk Southern Railway Company, and the Union Pacific Railway Company are hereby required and directed to proceed immediately and shall complete the work within thirty (30) days from the date of this Order.

IT IS FURTHER ORDERED that the Norfolk Southern Railway Company and the Union Pacific Railway Company shall, on the day that each heavy haul movement occurs, remove the crossing warning signs at their respective crossings of Robbins Road, and provide flaggers at both of the Robbins Road crossings.

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 9<sup>th</sup> day of April 2008.

JUDGE
SECTION CHIEF
<i>not</i>
ORDERS SUPERVISOR



CHARLES E. BOX  
CHAIRMAN