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STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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Illinois Commerce Commission
RAIL SAFETY SECTION

THE DEPARTMENT OF TRANSPORTATION))
OF THE STATE OF ILLINOIS, for and in)
behalf of the People of the State of Illinois,)
)
Petitioner,)
)
vs.) No.: 00-T-0109
)
UNION PACIFIC RAILROAD COMPANY,)
)
Respondent.)

(Parcel 6179122TE)

PROPOSED ORDER

BY THE COMMISSION:

On November 21, 2000, the Department of Transportation of the State of Illinois for and in behalf of the People of the State of Illinois (hereafter the "Department" or "Petitioner"), filed a verified Petition against the Union Pacific Railroad Company, a corporation, with the Illinois Commerce Commission ("Commission") for approval of the taking of certain property in Macoupin County, Illinois, by exercising the right of eminent domain (Parcel 6179122TE). An Entry of Appearance was thereafter filed by the Respondent although Respondent did not file an Answer to the Petition.

Pursuant to Notice as required by law and by the rules and regulations of the Commission, this matter was set for hearing on January 23, 2001, before a duly authorized Hearing Examiner at its offices in Springfield, Illinois. Appearances were entered on behalf

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of Petitioner and Respondent and on behalf of the Railroad Section Staff of the Commission. At the conclusion of the hearing on January 23, 2001, the record was marked "Heard and Taken."

Ms. Laura Rakers, Condemnation Acquisition Engineer employed by Petitioner, testified that Petitioner seeks a temporary easement, as to the property depicted on Petitioner's Exhibit "1". The temporary easement is needed for improvement of FAP Route 765 (IL Route 108) from a point just west of McCasland Avenue to the Union Pacific Railroad in Carlinville, Macoupin County, Illinois, which Route is under the control and jurisdiction of Petitioner. Ms. Rakers further testified that the improvement is approximately one-half mile in length and includes widening, resurfacing, construction of bidirectional left turn lanes, installing some signals and improving radius, all for the purpose of improving safety. The temporary easement sought is necessary for completion of the improvement and will permit the removal and reconstruction of an existing driveway shown on Petitioner's Exhibit "1". Funds for the project have been allocated and approved and the project is currently on a bid letting schedule for March 9, 2001. The temporary easement is needed for the lesser of three (3) years from the date of acquisition of the easement or to the date of completion of the project. Ms. Rakers further testified that the planned construction work will have no impact on the operations of Respondent.

Ms. Rakers also testified that Petitioner had offered Respondent \$800 for the acquisition of the Parcel sought in this proceeding. The Respondent did not submit a written counteroffer to the Petitioner's offer.

The Commission, having considered the entire record and being fully advised in the premises, finds that:

1. Respondent, the Union Pacific Railroad Company, a corporation, is registered to do business in the State of Illinois and is a rail carrier as defined by Section 18c-1101, et seq. of the Illinois Commercial Transportation Law effective January 1, 1986, as amended, the same being 625 ILCS 5\18c-1101, et seq.;

2. The Commission has jurisdiction over the parties hereto on the subject matter herein;

3. Petitioner seeks to acquire a temporary easement in Parcel 6179122TE, legally described in Appendix "A" attached hereto, for the lesser of three (3) years from date of acquisition or completion of the project described in this Order and also attached to the Petition in this Docket as Exhibit "A", presently owned by Respondent, for an improvement of FAP Route 765 (IL. Route 108) in Macoupin County, Illinois, to better serve the traveling public and to subserve the public safety and convenience in Macoupin County, Illinois;

4. Petitioner presented evidence as to the ownership by Respondent of the subject property as to which a temporary easement is sought and to its efforts to obtain the desired easement by voluntary negotiations with the Respondent;

5. The evidence showed the construction can be carried out without interfering with Respondent's conduct of its rail carrier operations in the State of Illinois;

6. The desired property interest is reasonably necessary for the proposed project;

7. The prayer of the Petition herein is in the public interest and should be granted.

IT IS, THEREFORE, ORDERED BY THE ILLINOIS COMMERCE COMMISSION that the approval of the Commission be, and the same is hereby, granted to the Department of Transportation of the State of Illinois, for the purpose of exercising its power of eminent domain for the purpose of acquiring a temporary easement to Parcel No. 6179122TE, legally described in Appendix "A" attached hereto, for the lesser of three (3) years from the date of acquisition of the temporary easement or the date of completion of the project;

IT IS FURTHER ORDERED that, subject to sections 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 ___ day of _____, 2001.

Chairman

FA Route 765 (IL Rte. 108)
Section 109X (W-2,RS-2)
Job No. R-96-017-99
Macoupin County
Rt. Sta. 20 + 862.806 to
Sta. 20 + 880.000
Parcel No. 6179122TE

A part of the Northeast Quarter of the Southeast Quarter of Section 29, Township 10 North, Range 7 West of the Third Principal Meridian, Macoupin County, Illinois, described as follows:

Beginning at the northeast corner of Lot 1 in Block 1 of Woodlawn Subdivision to the City of Carlinville being 8.342 meters [27.37 feet] right of Station 20+866.115 on the centerline of survey for FA Route 765 (IL Rte. 108); thence along assumed bearings North 89 degrees 16 minutes 11 seconds East 13.885 meters [45.55 feet] along the southerly existing right of way line for FA Route 765 (IL Rte. 108); thence South 38 degrees 55 minutes 07 seconds West 12.548 meters [41.17 feet]; thence North 69 degrees 26 minutes 23 seconds West 9.865 meters [32.37 feet] to the east line of said Lot 1; thence North 27 degrees 51 minutes 13 seconds East 6.924 meters [22.72 feet] along the east line of said Lot 1 to the Point of Beginning, containing 101.0 square meters, more or less [containing 1,087 square feet, more or less].