

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Norfolk Southern Railway Company, Cheney's Grove :
 Township Road District, and the State of Illinois, :
 Department of Transportation. :
 :
 Stipulated Agreement regarding improving public safety at : T08-0040
 the 3700E/TR 570C highway-rail grade crossing of the :
 Norfolk Southern Railway Company's track near Saybrook, :
 McLean County, designated as crossing AAR/DOT #475 :
 005W, railroad milepost 350.90-NL. :

SUPPLEMENTAL ORDER

By the Commission:

PROCEDURAL HISTORY

On March 12, 2008, the Illinois Commerce Commission entered its original Order in the above captioned matter. Cheney's Grove Township Road District ("Township"), and the Norfolk Southern Railway Company ("Company") were required to make safety improvements at the 3700E/TR 570C highway-rail grade crossing of the Norfolk Southern Railway Company's track near Saybrook, McLean County, designated as crossing AAR/DOT #475 005W, railroad milepost 350.90-NL, on or before March 12, 2009. Improvements included the installation of automatic flashing light signals and gates, and reconstruction of the north highway approach to meet the minimum requirements of 92 Ill. Adm. Code 1535.204.

SUPPLEMENTAL PETITION BY THE ROAD AUTHORITY

The original estimate contained in Stipulated Agreement 1309 for the engineering and reconstruction of the north approach was \$40,000, to be paid 100% by the Grade Crossing Protection Fund ("GCPF"), with \$2,100 being allocated for engineering, and the remaining \$37,900 being allocated for actual construction. On July 11, 2008, the McLean County Highway Department ("County"), on behalf of the Township, filed a Supplemental Petition for an additional amount of \$14,196.80 from the GCPF to pay extra costs associated with the ordered reconstruction, citing a higher than expected bid of \$52,096.80 for the approach reconstruction. The higher than expected bid was attributed to the recent high oil prices. On November 7, 2008, upon completion of the ordered approach work, the County filed an Amended Supplemental Petition on behalf of the Township stating that the actual costs incurred for the engineering and approach work came to \$46,444.74, which was \$6,444.74 above the original estimate of \$40,000. Therefore, the County is requesting an additional \$6,444.74 from the GCPF, rather than the \$14,196.80 originally requested.

Staff of the Rail Safety Section reviewed the Petitioner's request and believes that it is fair and reasonable that additional GCPF assistance should be approved to pay 100% of the additional highway approach grade improvement costs. Staff recommends that \$6,445 in additional GCPF assistance be approved.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, having given due consideration to the Amended Supplemental Petition, finds that:

- (1) The Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) The recitals of fact, as set forth in the prefatory portion of this First Supplemental Order, are supported by investigation by Commission Staff and are hereby adopted as findings of fact;
- (3) The County reports that the approach work required in the original Order has been completed, and Staff notes that notification has been received from the Company that the newly installed crossing devices have been placed in service as well, so all of the safety improvements required in the original Order have been completed.
- (4) All other terms and conditions of the original Order dated March 12, 2008 are hereby affirmed and shall remain in full force and effect except as herein modified.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that additional assistance in the amount of \$6,445 from the Grade Crossing Protection Fund be approved.

IT IS FURTHER ORDERED that all other terms and conditions of the original Order, dated March 12, 2008, are hereby affirmed and shall remain in full force and effect except as herein modified.

IT IS FURTHER ORDERED that, subject to Section 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 3rd day of December 2008.



CHARLES E. BOX
Chairman

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|---------------------------------|
| JUDGE |
| SECTION CHIEF <i>MES</i> |
| <i>DWJ</i> ORDERS SUPERVISOR |