

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

Union Pacific Railroad Company, Lone Grove Road District, and :  
the State of Illinois, Department of Transportation. :  
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 :  
Stipulated Agreement regarding improving public safety at the : T07-0027  
Township Road ("TR") 511 highway-rail grade crossing of the :  
Company's tracks near the Village of Saint Peter, in Fayette :  
County, Illinois, designated as crossing AAR/DOT #167 906V, :  
railroad milepost 234.67-CC. :

**FOURTH SUPPLEMENTAL ORDER**

By the Commission:

**PROCEDURAL HISTORY**

On April 18, 2007, the Illinois Commerce Commission ("the Commission") entered its original Order in the above captioned matter. The Union Pacific Railroad Company ("UP") was required and directed to, among other things, install automatic flashing light signals and gates with a bell, controlled by constant warning time circuitry, a new control cabinet, with an event recorder system, install temporary STOP signs, and raise the elevation of the east track to the elevation of the west track as required by 92 Ill. Adm. Code 1535.206, at the Township Road ("TR") 511 highway-rail grade crossing of the Company's track located near the Village of St. Peter, Fayette County, Illinois, designated as crossing AAR/DOT #167 906V, railroad milepost 234.67-CC. The original Order also required Lone Grove Road District ("Road District") to reconstruct the highway approaches to meet the minimum requirements of 92 Ill. Adm. Code 1535.204 and as further shown on Exhibit C, page 2 of the Stipulated Agreement attached to the original Order. The Illinois Department of Transportation ("IDOT") was also a party to the case. The original Order contained a division of cost among the parties and all work was to be completed on or before April 18, 2008.

On June 14, 2007, the Road District filed its Supplemental Petition requesting that the Commission enter a Supplemental Order granting to the Road District additional assistance from the Grade Crossing Protection Fund ("GCPF"), from \$66,805 to \$74,221, for modification to the highway approaches at the TR 511 crossing. The Supplemental Petition also requested the UP be directed to: 1) remove the east track crossing surface, raise the east track level to the west track and replace the crossing surface so that the tracks meet the minimum requirements of the Illinois Administrative Code; and, 2) install a new "under the track" culvert as shown on the revised preliminary plans dated May 10, 2007, Exhibit B, sheets 2 and 3, attached to the Supplemental Petition.

On November 28, 2007, the Commission issued its Supplemental Order authorizing

additional assistance from the GCPF for modification to the highway approaches at the TR 511 crossing. The Supplemental Order directed the UP to remove the east track crossing surface, raise the east track level to the west track and replace the crossing surface so that the tracks meet the minimum requirements of the Illinois Administrative Code. In addition, the Supplemental Order required the UP to install a new "under the track" culvert.

On March 19, 2008, Fayette County ("County"), on behalf of the Road District, filed its Second Supplemental Petition for an extension of time, to and including August 31, 2008, to complete the project. In support of its request, the thereof, the County stated that the Road District was working toward the completion of the roadway approach improvement, but that a final price of property required for the project had not yet been acquired. In addition, as of the date that the Second Supplemental Petition was filed, the UP had not raised the east tracks or installed the "under the track" culvert as required by previous Commission Orders.

On June 25, 2008, the Commission entered its Second Supplemental Order granting the Road District an Extension of Time, to and including August 31, 2008, to complete the required work.

On June 25, 2008, the UP filed its Petition for Third Supplemental Order requesting an extension of time, to and including December 31, 2008. With its Supp. Petition the UP stated that it had raised its track but was unable to install the culvert due to a shortage of manpower and equipment related in part to region wide flooding. In addition, the UP requested that culvert installation costs be allocated 50% to the railroad and 50% to the GCPF. The UP also requested that an extension of time to complete the required work, to and including December 31, 2008, be granted.

On December 3, 2008, the Commission entered its Third Supplemental Order granting the UP an extension of time, to and including December 31, 2008, to complete the required work and that 50% of the installation costs for the culvert be paid by the GCPF.

### **PETITIONER'S EVIDENCE**

On February 16, 2009, Fayette County, on behalf of the Road District, filed its Third Supplemental Petition for an extension of time, to and including July 31, 2009, to complete the project. In support of its request, the County stated that the Road District was working toward the completion of the roadway approach improvement, but that its contractor could not start until the "under the track" culvert was installed by the UP. The culvert work was completed on March 11, 2009.

### **STAFF'S POSITION**

Staff of the Rail Safety Section has reviewed the County's Supplemental Petition and believes the request for additional time, to and including July 31, 2009, to complete the work is reasonable and should be approved without hearing.

**FINDINGS AND ORDERING PARAGRAPHS**

The Commission, having given due consideration to the record in this case and the Petition for Supplemental Order, 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 Fourth Supplemental Order are true and correct and are hereby adopted as findings of fact;
- (3) The County's request for an extension of time, to and including July 31, 2009 is fair and reasonable and should be granted;
- (4) All other terms and conditions of the original Order, entered April 18, 2007, the First Supplemental Order dated November 28, 2007, the Second Supplemental Order dated January 16, 2008, and the Third Supplemental Order dated December 3, 2008 in this case should remain in full force and effect, except as modified herein.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that an extension of time, to and including July 31, 2009, is hereby granted to Lone Grove Road District within which to complete the reconstruction of the highway approaches as set forth in the original Order dated April 18, 2007.

IT IS FURTHER ORDERED that all terms and conditions of the original Order, entered April 18, 2007, the First Supplemental Order dated November 28, 2007, the Second Supplemental Order dated January 16, 2008, and the Third Supplemental Order dated December 3, 2008, in this case, shall remain in full force and effect, except as modified herein.

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

By Order of the Commission this 24<sup>th</sup> day of June 2009.



CHARLES E. BOX  
CHAIRMAN

JUDGE
SECTION CHIEF <i>MES</i>
<i>DWS</i> ORDERS SUPERVISOR