

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Norfolk Southern Railway Company, Village of Deer
Creek, and the State of Illinois, Department of
Transportation. :

Stipulated Agreement regarding improving public
safety at the Main Street and Perry Street highway-
rail grade crossings of the Norfolk Southern Railway
Company's track in the Village of Deer Creek,
Tazewell County (Main Street) and Woodford
County (Perry Street), designated as crossing
AAR/DOT #475 106H, railroad milepost 397.50-NL,
and crossing AAR/DOT #475 104U, railroad
milepost 397.20-NL, respectively. :

T08-0063 Supp.

SUPPLEMENTAL ORDER

By the Commission:

PROCEDURAL HISTORY

On May 21, 2008, the Illinois Commerce Commission entered its original Order in the above captioned matter. The Village of Deer Creek ("Village") and the Norfolk Southern Railway Company ("Company"), were required to make safety improvements at the Main Street and Perry Street highway-rail grade crossings of the Company's track in the Village of Deer Creek, designated as crossings AAR/DOT #475 106H, railroad milepost 397.50-NL, AAR/DOT #475 104U, railroad milepost 397.20-NL, respectively, on or before May 21, 2009.

PETITIONER'S EVIDENCE

On May 21, 2009, the Company filed its Request for Extension of Time to complete its portion of the project, as required by the Commission in its original Order. The Company is requesting an extension of time, to and including July 31, 2009, to complete the ordered reconstruction and raising of a siding track at the Main Street crossing. The ordered automatic warning devices at both the Main Street and Perry Street crossings have been installed and placed in service by the Company.

STAFF'S POSITION

Staff of the Rail Safety Section has reviewed the Request for Extension of Time submitted by the Company. Even though the Company's Petition was not filed in accordance with Commission procedure (Finding 9 of the original Order --*"Any person making a Request for an Extension of Time that exceeds 30 days must file a Petition for*

Supplemental Order with the Director of Processing and Information no later than 21 days in advance of the scheduled deadline.”), Staff believes that it is fair and reasonable to grant the Company additional time, to and including July 31, 2009, to complete the required work. Staff recommends entry of the attached Supplemental Order.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, having given due consideration to the entire record herein and being fully advised in the premises, is of the opinion and 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 Supplemental Order, are supported by investigation by Commission Staff and are hereby adopted as findings of fact;
- (3) The ordered automatic warning devices at both the Main Street and Perry Street grade crossings have been installed and placed in service by the Company, in accordance with the original Order;
- (4) Even though the Company’s Petition was not filed in accordance with Commission procedure (Finding 9 of the original Order states that “*Any person making a Request for an Extension of Time that exceeds 30 days must file a Petition for Supplemental Order with the Director of Processing and Information no later than 21 days in advance of the scheduled deadline.*”), Staff believes that it is fair and reasonable to grant the Company additional time, to and including July 31, 2009, to complete the ordered track and surface work at the Main Street grade crossing;
- (5) All other terms and conditions of the original Order dated May 21, 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 an extension of time, to and including July 31, 2009, is hereby granted to the Norfolk Southern Railway Company to complete the required work as set forth in the original Order dated May 21, 2008.

IT IS FURTHER ORDERED that all other terms and conditions of the original Order, dated May 21, 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 24th day of June 2009.



CHARLES E. BOX
CHAIRMAN

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