

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

The City of Alton, Illinois, by its Mayor, Donald E. Sandidge, :
Petitioner, :

vs. :

Norfolk Southern Corporation and State of Illinois Department :
of Transportation, Respondents. :

T08-0011 5th Supp.
(formerly T97-0050)

Petition for permission to construct an overhead grade :
separation crossing of Indiana Avenue, MFT Section #97- :
00208-01-GS, Structure #060-6110, over the tracks of the :
Norfolk Southern Corporation at a location approximately 1/3 :
mile north of Illinois Route 143, Alton, Madison County, :
Illinois. :

FIFTH SUPPLEMENTAL ORDER

By the Commission:

PROCEDURAL HISTORY

On December 17, 1997, the Illinois Commerce Commission (“Commission”) entered an Order in this Docket granting permission to the City of Alton (“City”) to, among other things, construct a highway overpass structure to carry Indiana Avenue over the tracks of the Norfolk Southern Railway Company (“NS”) in Alton, Madison County, Illinois. The estimated cost for the structure was estimated to be \$7,208,118, with 60%, not to exceed \$4,324,871, to be paid from the Grade Crossing Protection Fund (GCPF). The work was to be completed within three (3) years from the date of the original Order. A Supplemental Order, entered on March 7, 2001, extended the completion date to December 31, 2004, and increased the GCPF participation by \$258,698. A Second Supplemental Order, entered on June 19, 2002, released the remaining GCPF funds to the total authorized limit of \$4,583,569. A Third Supplemental Order, entered on December 15, 2004, extended the completion date for construction of the grade separation structure to June 30, 2007. A Fourth Supplemental Order, entered on August 29, 2007, extended the completion date for the construction of the grade separation structure to December 31, 2008. All bills for charges reimbursable from the GCPF were to be submitted within one year of the ordered completion date, on or before December 31, 2009.

CITY OF ALTON'S FIFTH SUPPLEMENTAL PETITION

On December 18, 2009, the City filed its Fifth Supplemental Petition. The Petition states that the required work to construct the grade separation structure is complete, but that final billing for charges reimbursable from the GCPF has not yet been submitted. It is anticipated that the complete contractual closing, and thus bills for all charges reimbursable from the GCPF, will be submitted on or before December 31, 2010. The City is thus requesting an extension of time for submission of requests for payment from the GCPF, to and including December 31, 2010.

STAFF'S POSITION

On December 23, 2009, Rail Safety Specialist, Aaron T. Toliver, on behalf of Commission Staff, filed a Staff Response to the City's Fifth Supplemental Petition. Staff indicated it has no objection to the City's requested time extension to submit requests for payment from the GCPF. However, it was Staff's opinion that all requests for payment should be submitted on or before June 30, 2010.

IDOT'S POSITION

On January 7, 2010, the Illinois Department of Transportation, by and through its attorney, Gloria M. Camarena, filed IDOT's Response to the City's Fifth Supplemental Petition. IDOT indicated it has no objection to the City's requested time extension.

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 Fifth Supplemental Order, are supported by investigation by Commission Staff and are hereby adopted as findings of fact;
- (3) the required construction of the Indiana Avenue grade separation structure has been completed in accordance with the original Order;
- (4) it is fair and reasonable to grant the City additional time, to and including June 30, 2010, for submission of requests for reimbursement from the Grade Crossing Protection Fund, and;
- (5) all other terms and conditions of the original Order dated December 17, 1997 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 June 30, 2010, is hereby granted to the City of Alton for submission of requests for reimbursement from the Grade Crossing Protection Fund.

IT IS FURTHER ORDERED that all other terms and conditions of the original Order, dated December 17, 1997, 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 10th day of March, 2010.



MANUEL FLORES
ACTING CHAIRMAN

JUDGE
SECTION CHIEF
ORDERS SUPERVISOR