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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF: )  
)  
CITY OF CRYSTAL LAKE, an )  
Illinois municipal )  
corporation, )  
)  
vs. )  
)  
UNION PACIFIC RAILROAD )  
COMPANY, )  
)  
Petition for an Order to )  
construct an 8-foot wide )  
pedestrian crossing on the )  
west side of Pingree Road, )  
AAR/DOT #176 969Y, railroad )  
milepost 41.59, located in the )  
City of Crystal Lake, McHenry )  
County, Illinois. )

No. T10-0080

Chicago, Illinois  
July 27, 2010

Met, pursuant to notice, at Chicago.

BEFORE:

LATRICE KIRKLAND-MONTAQUE, Administrative Law Judge

APPEARANCES:

MR. JOHN L. COWLIN  
20 Grant Street  
Crystal Lake, Illinois 60014  
(815) 459-5300  
for the City of Crystal Lake;

1 UPRR LAW DEPARTMENT, by  
2 MR. MACK H. SHUMATE, JR.  
3 101 North Wacker Drive  
4 Suite 1920  
5 Chicago, Illinois 60606  
6 (312) 777-2055  
7 for the Union Pacific Railroad;

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20 ILLINOIS COMMERCE COMMISSION, by  
21 MR. BRIAN VERCRUYSSSE  
22 527 East Capitol Avenue  
Springfield, Illinois 62701  
(630) 424-8750  
for Staff.

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- direct</u>	<u>Re- cross</u>	<u>By Examiner</u>
Victor Ramirez	6	21, 33	32		
Thomas Andryuk	35	63, 66			
Daniel Corcoran	69				

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
Petitioner 1	8	77
Petitioner 2	9	77
Petitioner 3	10	77
Petitioner 4	11	77
Petitioner 5-7	19	77
Respondent 1-10 (Group 1)	21	77

1           JUDGE KIRKLAND-MONTAQUE: By the power vested  
2 in me by the State of Illinois and the Illinois  
3 Commerce Commission, I now call Docket No. T10-0080.  
4 This is in the matter of the City of Crystal Lake, as  
5 petitioner versus the Union Pacific Railroad Company.  
6 And they have filed a petition seeking authority to  
7 modify a vehicular crossing at the Pingree Road  
8 crossing in Crystal Lake, Illinois.

9                   May I have appearances, please,  
10 starting with the petitioner.

11           MR. COWLIN: John Cowlin, the attorney for the  
12 City of Crystal Lake.

13           JUDGE KIRKLAND-MONTAQUE: Can you spell your  
14 name and give us your address and phone number,  
15 please.

16           MR. COWLIN: It's C-o-w-l-i-n. The address is  
17 20 Grant Street, Crystal Lake, Illinois 60014.

18           JUDGE KIRKLAND-MONTAQUE: Okay. Union Pacific.

19           MR. SHUMATE: Thank you, your Honor. My name  
20 is Mack Shumate, M-a-c-k S-h-u-m-a-t-e. I'm an  
21 attorney for the Union Pacific Railroad Company.  
22 We're at 101 North Wacker Drive, Suite 1920, Chicago,

1 Illinois 60606, respondent.

2 JUDGE KIRKLAND-MONTAQUE: Okay.

3 Mr. Vercruysse.

4 MR. VERCRUYSSSE: Thanks, your Honor. Brian  
5 Vercruysse, V-e-r-c-r-u-y-s-s-e, representing Staff  
6 of the Illinois Commerce Commission at address 527  
7 East Capitol Avenue, Springfield, Illinois 62701.

8 JUDGE KIRKLAND-MONTAQUE: Okay. Before we get  
9 started could we have all the witnesses who will  
10 testify today stand and raise your right hand.

11 (Witnesses sworn.)

12 JUDGE KIRKLAND-MONTAQUE: I will give the floor  
13 to Mr. Cowlin to present the petition.

14 MR. COWLIN: Thank you, your Honor.

15 Before I begin I do have several  
16 exhibits. My question is would you like me to hold  
17 them and present them at the end?

18 JUDGE KIRKLAND-MONTAQUE: Are you going to use  
19 them during the presentation?

20 MR. COWLIN: Yes.

21 JUDGE KIRKLAND-MONTAQUE: Why don't we take a  
22 second and we can mark them now.

1           MR. COWLIN:  They are marked.  I did premark  
2  them.

3           JUDGE KIRKLAND-MONTAQUE:  Oh, okay.  That's  
4  fine.  Well, just hold on to them until you're ready.

5           MR. COWLIN:  Thank you.

6                        I would call Victor Ramirez as the  
7  witness for the City of Crystal Lake.

8                        VICTOR C. RAMIREZ,  
9  called as a witness herein, having been first duly  
10  sworn, was examined and testified as follows:

11                       DIRECT EXAMINATION

12                       BY

13                       MR. COWLIN:

14           Q     Would you state your name, please.

15           A     My name is Victor, middle initial C,  
16  Ramirez.

17           Q     What is your position with the City of  
18  Crystal Lake?

19           A     I'm the director of engineering and  
20  building and also the city planner.

21           Q     Are you familiar with the train crossing at  
22  Pingree Road and the width of the pavement at that

1 crossing?

2 A Yes.

3 Q Are you familiar with the Pingree Road  
4 reconstruction projects that were undertaken by the  
5 City of Crystal Lake?

6 A Yes.

7 Q Would you give a brief description of those  
8 projects and who participated financially with the  
9 City in paying for those projects.

10 A The origin of a lot of construction in the  
11 Pingree Road corridor, which essentially for  
12 purposes -- the purpose we're talking about today  
13 runs from Crystal Lake Avenue on the north side to  
14 Route 14 on the south side.

15 There was a capacity issue with Route  
16 14 and Pingree Road identified a number of years ago  
17 which prompted consideration for a project there,  
18 which inevitably was constructed at Route 14 and  
19 Pingree. At a point in time of the preliminary  
20 engineering for that project Metra came in with a  
21 proposal for a station at Pingree Road called Pingree  
22 Road Station, which is really actually off of

1 Congress Parkway which connects to Pingree Road.

2 That traffic impact analysis dictated  
3 some additional improvements that would be required  
4 on Pingree Road to accommodate commuter traffic. And  
5 the Route 14 and Pingree project was then extended  
6 north to just past the railroad tracks to include  
7 improvements to the Metra -- demand was going to  
8 cause. So that is the origin of how the Pingree Road  
9 improvements were required.

10 Q Have those projects been complete with the  
11 exception of the petition before the Commerce  
12 Commission today?

13 A Yes.

14 Q Those projects did encompass the railroad  
15 crossing at Pingree Road; is that correct?

16 A The one that is yet to be completed is this  
17 project we're talking about. The other two projects  
18 were completed previously.

19 (Whereupon, Petitioner Exhibit  
20 No. 1 was marked for  
21 identification.)

22

1 BY MR. COWLIN:

2 Q I would show you the City's Exhibit No. 1  
3 which is designated as a location map and ask if you  
4 can identify that?

5 A Yes.

6 Q What does it portray?

7 A It indicates the road network in the  
8 vicinity of the crossing.

9 MR. COWLIN: I believe these are in the record.

10 JUDGE KIRKLAND-MONTAQUE: Okay.

11 MR. SHUMATE: Counsel, I have a copy of your --  
12 that was filed with the petition. You're welcome to  
13 use this if it's identical.

14 (Whereupon, Petitioner Exhibit  
15 No. 2 was marked for  
16 identification.)

17 BY MR. COWLIN:

18 Q I would also show you Exhibit No. 2, the  
19 City's exhibit, and ask you if you could identify  
20 that.

21 A Exhibit No. 2 indicates the proposed  
22 sidewalk crossing the Union Pacific Railroad on the

1 west side of the tracks -- I mean, the west side of  
2 Pingree Road.

3 Q Could you describe the configuration of the  
4 crossing and Pingree Road at the point where the  
5 tracks are crossed by Pingree Road?

6 A The configuration is a -- an askewed  
7 crossing of Pingree Road with the railroad tracks.  
8 The roadway width is approximately 24 feet. And the  
9 proposed improvement provides for no expansion of the  
10 roadway in that area, only a pedestrian crossing.

11 Q Does the roadway widen beyond the area of  
12 tracks in what direction?

13 A The widening project in conjunction with  
14 Metra and Congress Parkway improvements is south of  
15 the tracks. Pedestrian path is the only thing that  
16 goes north of the tracks.

17 (Whereupon, Petitioner Exhibit  
18 No. 3 was marked for  
19 identification.)

20 BY MR. COWLIN:

21 Q Show you Exhibit -- City's Exhibit 3 for  
22 identification. Would you identify that, please.

1 JUDGE KIRKLAND-MONTAQUE: Exhibit 3, you said?

2 MR. COWLIN: Exhibit 3. Correct.

3 THE WITNESS: Exhibit 3 is the engineering  
4 depiction of the existing conditions at the crossing  
5 of Pingree Road and the railroad.

6 MR. SHUMATE: I may have that.

7 BY MR. COWLIN:

8 Q Is there a pedestrian crosswalk in that  
9 particular area?

10 A No.

11 JUDGE KIRKLAND-MONTAQUE: I'm sorry. I didn't  
12 hear your answer.

13 THE WITNESS: No, there is not.

14 (Whereupon, Petitioner Exhibit  
15 No. 4 was marked for  
16 identification.)

17 BY MR. COWLIN:

18 Q I would show you City's Exhibit No. 4 for  
19 identification. Would you identify what that exhibit  
20 is.

21 A Exhibit 4 is the proposed sidewalk crossing  
22 at the location.

1 Q Could you describe where the terminus is of  
2 the existing sidewalks that you've been referring to.

3 A There is an existing sidewalk north of the  
4 railroad tracks that ends approximately maybe 50 --  
5 maybe 50 feet north of the railroad crossing and to  
6 the south side about the same distance. So there's a  
7 sidewalk terminus on both sides with no connecting  
8 link.

9 Q Do the plans as shown on Exhibits 3 and 4  
10 accurately depict the area where the pedestrian  
11 crossing would be installed?

12 A They do.

13 Q What type of surface would be used?

14 A This would be a concrete sidewalk.

15 Q And as far as the sidewalk itself, how  
16 would it merge in with the existing sidewalk as far  
17 as size?

18 A It would meet the existing sidewalks there  
19 that are 8 feet already.

20 Q Would those be in keeping with the  
21 regulations and ordinances of the City of Crystal  
22 Lake?

1           A     Yes.

2           Q     The City is requesting permission to  
3     install a sidewalk at Pingree Road.  Could you give a  
4     brief maybe description of the sidewalks as they  
5     exist on both sides of the road and with respect  
6     to -- particularly to the east side where the  
7     sidewalk ends.

8           A     On the east side there's -- there are a  
9     couple of segmented pieces of sidewalk.  One's in  
10    front of a kind of light industrial manufacturing  
11    area.  It's not really -- it really doesn't have any  
12    real use.  After that there's some other bits and  
13    pieces on the east side.  There's not a real  
14    continuous sidewalk network on that side that makes  
15    sense to try to enhance it at all.  So we considered  
16    just keeping the west side as the primary pedestrian  
17    route -- west side Pingree Road.

18          Q     Do you know -- or if you know, does the  
19    City have any intention of it coming before the  
20    Commerce Commission for a petition to extend the  
21    sidewalk on the west side -- or I'm sorry -- the east  
22    side?

1           A     No.  The original preliminary engineering  
2     did indicate a preference to try to accommodate a  
3     crossing on -- a pedestrian crossing on both sides of  
4     Pingree Road.  But because of the nature of the  
5     terrain, the site distance and the other segmented  
6     disconnected fashion of sidewalk on the east side  
7     anyway, it was deemed that that would be something  
8     not prudent to proceed with.  So we concentrated on  
9     the west side.

10           Q     As a part of the construction -- the  
11     improvements on Pingree Road, was that taken into  
12     consideration as far as the location of the sidewalk  
13     on the east side only?

14           A     Yes.

15           Q     And how was that taken into consideration?

16           A     In regards to...?

17           Q     As far as having the sidewalk on the east  
18     side only.

19           A     It really -- consideration didn't really --  
20     well, we have -- we've proposed to provide for a  
21     crossing from west to east at Congress Parkway.  That  
22     way you can consolidate the pedestrian movements and

1 it would be -- there would be regular signalization  
2 and pedestrian crossing elements there to provide the  
3 safe crossing there.

4 Q Will the proposed crossing have the effect  
5 of separating pedestrian from vehicular traffic on  
6 Pingree Road?

7 A Yes.

8 Q Will the crossing have the effect of  
9 providing a connection of business and residential  
10 service users in the area? And maybe you could  
11 embellish that a little bit.

12 A Right now they're actually using the  
13 roadway to cross the tracks which is the whole point  
14 of why we feel a separated facility would be in  
15 order. There's a number of destination points south  
16 of the tracks, a Culver's, there's a movie theater,  
17 Portillo's. There are places that people sometimes  
18 have a tendency to use -- to walk to rather than  
19 drive to.

20 Q Is the property that is north of the tracks  
21 primary residential?

22 A North is primary residential, yes.

1           Q     And would you characterize the property  
2 south of the track as more in nature of commercial --

3           A     Yes.

4           Q     -- businesses that you referred to?

5           A     Yes.

6           Q     Will the crossing be signalized with  
7 warning devices?

8           A     Yes.

9           Q     What type?

10          A     Standard gates and associated light,  
11 audiovisual.

12          Q     Are pavement markings and signs also  
13 contemplated?

14          A     There's -- whatever signage and markings  
15 would be necessary by the Union Pacific standards, we  
16 would certain include.

17          Q     Who will be responsible for the costs  
18 associated with the construction of the path and  
19 associated warning devices?

20          A     The City would be.

21          Q     And if it's determined by the Commission  
22 that additional crossing warning devices are required

1 and Union Pacific and required to provided them, who  
2 would pay for the cost of those devices?

3 A That would be the City also.

4 Q When would the construction of the path  
5 start in your estimation?

6 A The time frame for construction is  
7 scheduled for year 2011.

8 Q What would be the likely completion time?

9 A It would be the end of year in 2011.

10 Q Would the construction of the path  
11 independently necessitate the closure of the Union  
12 Pacific track to the roadway?

13 A I don't think so.

14 Q Who, in fact, would do the construction  
15 within the Union Pacific?

16 A It would be my understanding that through  
17 an arrangement between the City and the Union Pacific  
18 the Union Pacific would perform the work at the  
19 City's expense.

20 Q Is the City or has the City been working  
21 with Union Pacific with respect to the engineering of  
22 the project?

1           A     Yes.

2           Q     What is the contemplated distance from the  
3     end of the gate in the down position from the south  
4     rail?

5           A     I believe it's 12 feet, 3 inches.  It's  
6     another standard.

7           Q     Would it be the same on the other side?

8           A     I believe so, yes.

9           Q     What is the crossing distance, do you know,  
10    if -- or I should say, in regard to the Union Pacific  
11    tracks?

12          A     I believe it's about 30 feet from  
13    the either -- edge of rail to edge of rail, if I'm  
14    not mistaken.

15          Q     Has the City had any communications with  
16    Union Pacific regarding the pedestrian path?

17          A     Yes.

18          Q     What were those briefly?

19          A     Original telephone discussions and then  
20    were followed by face-to-face meetings and included a  
21    field visit also.

22          Q     Have the plan details that you've described

1       been presented to the Union Pacific?

2             A     Yes.

3             Q     Do you know when that was?  If you don't,  
4       that's okay.

5             A     I want to say about eight months ago -- six  
6       to eight months ago.

7                                       (Whereupon, Petitioner Exhibit  
8                                       Nos. 5-7 were marked for  
9                                       identification.)

10       BY MR. COWLIN:

11            Q     I'm going to show you Exhibit 5, 6 and 7.  
12       Would you identify them for the record, please.

13            A     Okay.  Exhibit 5 are a certified copy of  
14       minutes from a Plan Commission Meeting dated  
15       Wednesday, October 9th, 2002, regarding the Metra  
16       station proposal at Pingree and Congress Parkway.  
17       That's No. 5.

18                                       No. 6 is a -- certified minutes from  
19       the City Council proceedings of December 3rd, 2002,  
20       which relate to the approval of the final planning  
21       and development and planned subdivision for the  
22       Metra, petitioner.

1                   And No. 7 -- Exhibit 7 is a certified  
2 copy of an ordinance that granted the final planning  
3 development to 570 Congress Parkway, which is the  
4 address for the Metra station.

5           Q     And did the approval of the Planning  
6 Commission, the final approval of the City Council  
7 include the crossing improvement as discussed today?

8           A     It did. It did, yes.

9           Q     Do you know if the Union Pacific has  
10 indicated any objection to the proposed pedestrian?

11          A     Not that I'm aware of.

12          Q     One final question.

13                   Once it's installed, who would have  
14 the maintenance responsibility for the path?

15          A     My understanding is that the City would  
16 have the financial obligation. However, the Union  
17 Pacific personnel would go do the actual physical  
18 maintenance.

19           MR. COWLIN: I have no further questions at  
20 this time.

21           JUDGE KIRKLAND-MONTAQUE: Mr. Shumate, do you  
22 have questions for the witness?



1 identified as such.

2 Q So this is covered under the agreement that  
3 you had with Metra?

4 A That's -- yes.

5 Q For the station upgrade --

6 A Correct.

7 Q -- and parking?

8 And with regard to the crossing as it  
9 is today, is there any plan by the Municipality, to  
10 your knowledge, to widen Pingree Road to the north?

11 A There is not. The improvements to the  
12 north, which provide for a three-lane section of  
13 roadway to allow for some left turning -- segregated  
14 left turning movements, that work has been completed  
15 as well as the work at the intersection and -- which  
16 provide -- the capacity issues and signalization at  
17 Crystal Lake Avenue and Pingree, that work was  
18 completed last year. So that's really the end of the  
19 improvements contemplated on Pingree Road.

20 It would still remain one lane north,  
21 one lane south at the crossing.

22 Q So it would remain a two-way highway as far

1 as the Municipality's concerns within its plans?

2 A Yes.

3 Q Do you know what the average vehicle count  
4 is on the road or approximately?

5 A I did not look that up. I want to say -- I  
6 mean, I can speculate a little bit about --

7 Q Well, is it a crossing area that has a lot  
8 of traffic relative to others in the town or is it  
9 just used during rush hour? Is it a local road that  
10 is not used much?

11 A It's a -- probably would be classified as  
12 a -- it's not an arterial. It's not -- it's maybe a  
13 minor collector. I would describe it as a minor  
14 collector. The actual road volume that is on it is  
15 only adversely affected by the lack of intersection  
16 improvements to those locations. Although two of  
17 those have been addressed, Congress Parkway being  
18 part of this project, is the last element.

19 Q I'm going to show you what was previously  
20 marked as the Petitioner's Exhibit -- I believe --  
21 No. 2. And it's a -- so this is an aerial view of  
22 Pingree Road and also showing a depiction of where

1 the proposed sidewalk would go; is that correct?

2 A Yes.

3 Q And these intersection improvements to the  
4 north, it says, Oak Hollow Road and Grandview Drive,  
5 so there are extra turn lanes that have been added to  
6 this two-lane highway; is that correct?

7 A Yes.

8 Q And then to the south, what has occurred or  
9 what is planned to occur?

10 A To the south at the next significant  
11 intersection, which is Congress Parkway, which is the  
12 roadway that connects to the driveway for the Metra  
13 station is on, provides for dual left turn lanes  
14 north to westbound and a widening to provide for the  
15 other turn lane movements on Congress Parkway to  
16 Pingree Road.

17 Q Do you know if the Village has any proposal  
18 before it to establish an underpass at this  
19 particular location?

20 A Yeah, there is -- there's discussion within  
21 the Phase One Report regarding that for the Pingree  
22 Road project as well as some of the meeting minutes

1 reference Metra's responsibility to still pursue a  
2 grade separation -- feasible in the future at this  
3 location. And, actually, the area just north to the  
4 north- -- in the northwest quadrant of the crossing  
5 there was right of way set aside as part of Metra  
6 approval to provide for a future potential grade  
7 separation.

8 Q Okay. Thank you.

9 You indicated that the construction of  
10 the proposed sidewalk would be built by a contractor.  
11 Would that be a contractor that would be hired by the  
12 Municipality?

13 A The crossing itself?

14 Q No, sir. The approaching -- the sidewalk.

15 A Yes, that would be by the contractor.

16 Q And then the crossing itself, that would be  
17 installed by the Railroad. Is that your  
18 understanding?

19 A That's my understanding, yes.

20 Q And for work that would be done and  
21 performed by the Municipality, would that be done  
22 through a public bidding process?

1           A     Yes.

2           Q     Based on what's been marked as Petitioner's  
3 Exhibit -- I believe -- 6, this is the plan for the  
4 sidewalk; correct?

5           A     Yes.

6           Q     Okay. Based on this exhibit, does it  
7 appear to you, as an engineer for the Municipality,  
8 that the right of way that would be necessary in  
9 order to construct this sidewalk is already within  
10 the right of way which the roadway authority or the  
11 City of Crystal Lake has the right to use?

12          A     Yes.

13          Q     Thank you.

14                         With regard to the construction, if  
15 it's approved by the Illinois Commerce Commission, is  
16 it the expectation of the Municipality that it would  
17 enter into a standard railroad construction agreement  
18 for the construction of the improvement?

19          A     Yes.

20          Q     I'm going to show you an exhibit that has  
21 not been presented yet. This is currently marked as  
22 Union Pacific Exhibit No. 5. I have to scroll to it.

1 I apologize.

2 Okay. Let me ask this question: Had  
3 you had an opportunity to visit the site where the  
4 proposed pedestrian path will go?

5 A Yes.

6 Q This indicates that it's a photograph  
7 looking north where the sidewalk will be extended  
8 across Harvard subdivision. Based on your field  
9 observations, does this accurately reflect what the  
10 crossing and the existing sidewalk looks like today  
11 on the southwest quadrant?

12 A Yes.

13 Q Now, on this, I want to circle an area here  
14 in red. And you'll notice that there's a yellow pipe  
15 here, and then also it looks like some type of valve  
16 system. Do you know what this is?

17 A I do not.

18 Q Okay.

19 A Maybe a gas valve. They're typically  
20 yellow.

21 Q Okay. Would the Municipality deal with  
22 whatever utility that is to make sure that that is

1 properly -- appropriately relocated to accommodate  
2 the sidewalk?

3 A We would.

4 Q Now, I'm going to show this area here where  
5 the sidewalk would come. And this is -- appears from  
6 this photograph to be a depressed area, meaning at a  
7 lower elevation than the existing sidewalk; is that  
8 correct?

9 A That's correct.

10 Q Would this be filled in to bring the  
11 sidewalk to an eyeball level -- strike that.

12 Would this be filled in to bring it up  
13 to a level that would closely approximate the contour  
14 of Pingree Road with fill?

15 A Yes.

16 Q And to the extent drainage would be needed,  
17 would some form of pipe or something be placed under  
18 this to make sure that ponding does not occur?

19 A Drainage will be accommodated as necessary,  
20 yes.

21 Q Now, I'm going to show you what's been  
22 marked as Union Pacific Railroad No. 6. This says --

1 looking south where the sidewalk would be extended  
2 across the Harvard subdivision. Based on your field  
3 observations, does this generally show what the  
4 condition is of the existing sidewalk looking south?

5 A Yes.

6 Q So we're on the north side of the crossing  
7 now; correct?

8 A We are, yes.

9 Q There is a fence here that I'll highlight.  
10 Was that part of the Metra project, do you know?

11 A I believe, yes.

12 Q Okay. So a part of this fence will have to  
13 be removed to accommodate the extension of sidewalk;  
14 is that correct?

15 A Yes.

16 Q And will the Municipality take care of that  
17 with whatever is necessary with Metra?

18 A Yes.

19 Q And then this area here that -- I'll draw  
20 it again. This square here, do you know why that  
21 part of the -- why that fence is needed there? Is  
22 there a viaduct or something in the area there that

1 that would have been installed?

2 A I think there is some depression there that  
3 also would require some fill. And I think the fact  
4 that the sidewalk just ended it was better to  
5 probably provide some deterrent from trying to  
6 continue south --

7 Q I see.

8 A -- without any real walking surface.

9 Q And, again, as the sidewalk is constructed,  
10 would the contour be raised to a level that would  
11 approximate the existing road surface?

12 A Yes.

13 Q And if drainage protection was necessary,  
14 that would also be addressed?

15 A Yes.

16 Q If the project is approved by the Illinois  
17 Commerce Commission, do you have an estimate of the  
18 time when the final plans would be available for  
19 review by the Railroad? As the plans for the  
20 sidewalk?

21 A I believe by the end of August they will be  
22 ready.

1           Q     And are those plans being prepared by the  
2     same engineering firm that's been -- that prepared  
3     the existing site plans or is it a different  
4     contractor?

5           A     The -- no, the engineer that is doing the  
6     design for the improvement will be doing -- is also  
7     doing the sidewalk improvement also.  There's a  
8     little bit of an oddness to the arrangement because  
9     Metra -- by the approval process with the City Metra  
10    was responsible for the engineering of the project.  
11    So they technically are the client, not the City,  
12    which is a little unusual but it's working.

13                    So there is an obligation between the  
14    engineer and Metra first because that's where the  
15    contractual relationship is, but there's also a  
16    relationship between us and Metra and the engineer  
17    and us.  So -- as the City.  So that responsibility  
18    lies with that engineer.  That is part of the  
19    project.

20           MR. SHUMATE:  Okay.  Thank you.

21                    No further questions.

22           JUDGE KIRKLAND-MONTAQUE:  Any follow-up,

1 Mr. Cowlin?

2 REDIRECT EXAMINATION

3 BY

4 MR. COWLIN:

5 Q The only question I have is could you  
6 indicate what the parking situation is, number of  
7 spaces at the Metra station there.

8 A The Metra station -- there's kind of a  
9 phasing schedule for parking based on demand and  
10 growth. And the original station contemplated around  
11 400 spaces, which the original construction entailed.

12 There's been a recent expansion of  
13 about another -- I want to say about 380 spaces or  
14 so, which was their Phase Two expansion. There's  
15 actually two more future phases that they will -- you  
16 know, initiate when the time comes or when the demand  
17 dictates.

18 Q Would it be a fair statement to make that  
19 the traffic to that station does come from the three  
20 directions as indicated on the drawing from Congress  
21 and from the east and west -- I'm sorry -- north and  
22 south -- I've got my directions mixed up -- on

1 Pingree?

2 A Yes.

3 MR. COWLIN: I have no further questions.

4 JUDGE KIRKLAND-MONTAQUE: Mr. Vercruysse, any  
5 questions?

6 MR. VERCRUYSSSE: Your Honor, I just have a few  
7 questions, if I may.

8 CROSS-EXAMINATION

9 BY

10 MR. VERCRUYSSSE:

11 Q Mr. Ramirez, following along the lines as  
12 far as Metra being responsible for the engineering,  
13 who will let the actual construction contract and  
14 oversee the contract?

15 A The City will.

16 Q The City will. Okay. Thank you.

17 Have you received cost estimates for  
18 the work from the Union Pacific Railroad?

19 A Not in detail.

20 Q Have you received a ballpark estimate or  
21 something as far as that portion of your project  
22 costs for the crossing surface or the pedestrian

1 gates that you testified to?

2 A Yes. Yes.

3 Q Can you share your ballpark estimates.

4 A I believe the ballpark estimate that I was  
5 working with was about 250,000.

6 Q And that would be for the crossing surface  
7 and the warning devices?

8 A Yes.

9 Q At the station itself, what sort of  
10 pedestrian accommodations are there?

11 A At the Metra station itself?

12 Q Yes.

13 A I know that it's all accessible because it  
14 is ramped on the south side. Yeah, pedestrian access  
15 is from the south side of the station both with  
16 meeting all accessibility standards.

17 Q There's a pedestrian tunnel there?

18 A There is also a pedestrian tunnel, yes.

19 Q Okay. But in terms of your proposed  
20 project, it's to link the north and south sides of  
21 the residential to the business and commercial  
22 development?

1           A     Yes.

2           MR. VERCRUYSSSE:  Thank you very much,  
3     Mr. Ramirez.

4                         No further questions, your Honor.

5           JUDGE KIRKLAND-MONTAQUE:  Mr. Cowlin, is there  
6     anything further from the Village?

7           MR. COWLIN:  Nothing further.

8           JUDGE KIRKLAND-MONTAQUE:  Sorry.  The City.

9                         Okay.  Mr. Shumate, you have a witness  
10    you'd like to put on?

11          MR. SHUMATE:  Thank you, your Honor.

12                         I'd like to call Thomas Andryuk.

13                         THOMAS ANDRYUK,  
14    called as a witness herein, having been previously  
15    duly sworn, was examined and testified as follows:

16                                 DIRECT EXAMINATION

17                                 BY

18                                 MR. SHUMATE:

19          Q     Would you state your name for the record,  
20    please.

21          A     Thomas Andryuk, A-n-d-r-y-u-k.

22          Q     Mr. Andryuk, by whom are you currently

1 employed?

2 A Union Pacific Railroad.

3 Q And how long have you worked for the Union  
4 Pacific Railroad and/or its predecessor?

5 A 30 years.

6 Q And what department are you in right now?

7 A Engineering Department.

8 Q And what is your title?

9 A Manager of field engineering.

10 Q As a manager of field engineering, are your  
11 duties to oversee projects such as the one that's  
12 before the Illinois Commerce Commission today?

13 A Yes.

14 Q Have you had an opportunity to visit the  
15 site where the proposed sidewalk would be installed?

16 A Yes.

17 Q And did you take any photographs in the  
18 area for the railroad file regarding this matter?

19 A I did.

20 Q Now -- right now I have to show you a  
21 document that's referenced as Union Pacific Railroad  
22 Exhibit No. 1. It's also attached to the petition.

1 Does this generally show the DOT number of this  
2 particular crossing?

3 A It does.

4 Q And it's DOT No. 176 969Y; is that correct?

5 A Correct.

6 Q And at what milepost on the Union Pacific  
7 Railroad system is this?

8 A 41.59.

9 Q And it says, Harvard sub. What does that  
10 mean?

11 A The various legs of railroad track are  
12 given designations throughout the Union Pacific  
13 system. This one -- usually it's from a point of  
14 origin to a point of termination. So in -- this  
15 particular line originates in Chicago and at one time  
16 probably -- or at least for commuter operation  
17 purposes terminates in Harvard.

18 Q So the Harvard subdivision, does it go from  
19 Chicago in basically a northwest direction?

20 A Correct.

21 Q And is it sometimes referred to as the  
22 Northwest Line?

1           A     Correct.

2           Q     Does the Union Pacific have other commuter  
3 lines that it operates in the Chicago area?

4           A     It does.

5           Q     And what are they?

6           A     They have two other subdivisions associated  
7 with Metra's commuter operation. They are the  
8 Kenosha subdivision, which operates from Chicago to  
9 Kenosha, Wisconsin, and the Geneva subdivision, which  
10 operates from Chicago out to Elmwood.

11          Q     With regard to the line that we're talking  
12 about today, the Harvard sub, is it exclusively Metra  
13 commuter traffic on it?

14          A     No.

15          Q     What are other type of traffic moves on  
16 that line?

17          A     There's also freight traffic.

18          Q     What is the track's speed in this  
19 particular line of road?

20          A     This is 70 miles an hour for passenger  
21 trains. 60 miles an hour for freight trains.

22          Q     How many freight trains use this particular

1 line on a daily basis?

2 A Approximately 4.

3 Q And approximately how many commuter trains  
4 use this line on a daily basis?

5 A 56.

6 Q Do you know what the accident history is at  
7 this particular crossing, which we refer to as the  
8 Pingree Road crossing?

9 A The Federal Railroad Administration's  
10 database indicates that there were approximately  
11 three accidents at this crossing since 1979, the last  
12 one being in 1994.

13 Q Have there been any fatalities at this  
14 particular crossing?

15 A Yeah, the records indicate that the  
16 accident in 1994 was a fatality.

17 Q And was that a pedestrian or was that --  
18 did it involve a vehicle at the crossing?

19 A Vehicular accident.

20 Q I'm going to show you an exhibit which has  
21 been marked as Union Pacific Railroad Exhibit No. 2.  
22 Can you describe what that exhibit is.

1           A     This is the aerial of the crossing area  
2     showing Pingree Road in a north-south direction, the  
3     railroad tracks intersecting it at -- whatever angle  
4     that is. I think it's approximately 55 degrees. And  
5     then the proposed extension or connection of the  
6     sidewalk to the north and to the south across the  
7     Union Pacific tracks.

8           Q     Now, Mr. Andryuk, where did you get this  
9     exhibit?

10          A     This was provided by -- as part of the  
11     City's petition.

12          Q     Now, based on your observations at the  
13     site, does this accurately portray what is currently  
14     at the crossing in the vicinity of the Metra station?

15          A     Yes.

16          Q     Now, I'm going to show you what's been  
17     marked as Union Pacific Exhibit No. 3. Did you take  
18     this photograph?

19          A     Yes, I did.

20          Q     Approximately how long ago?

21          A     Three, four months.

22          Q     And what does this show?

1           A     This is standing in a northwest --  
2 northeast quadrant, rather, just looking towards the  
3 west. This is actually from a little bit of an  
4 elevated site -- but it doesn't represent it very  
5 well -- overlooking the crossing just showing the  
6 general layout of the crossing, the surface, the  
7 general openness of the area, any obstructions, its  
8 relationship to the Pingree Road commuter station,  
9 the two track main line and the signal warning  
10 system.

11           Q     All right. Mr. Andryuk, currently what is  
12 the type of signalization that is at this particular  
13 crossing based on this photograph?

14           A     Automatic gates and flashers.

15           Q     And I'll depict something here, if I can.  
16 I'm circling it in red right now. Is that the  
17 location of the Metra station?

18           A     Correct.

19           Q     And this box right here, what is that?

20           A     That's the railroad signal bungalow that  
21 operates the warning system.

22           Q     Okay. And how many tracks are -- make up

1 this crossing as it's currently configured?

2 A Two main tracks.

3 Q Two main tracks?

4 A Yes.

5 Q Do you know of any plans to put a third  
6 track in this location in the near future?

7 A No.

8 Q I'm going to show you now what's been  
9 marked as Union Pacific Railroad Exhibit No. 4. Did  
10 you take this photograph?

11 A I did.

12 Q Was it taken approximately at the same time  
13 as the other photograph?

14 A Yes.

15 Q What does this show?

16 A This is just standing on the other side of  
17 the tracks a little bit closer to the crossing  
18 showing the signals govern -- the signal warning  
19 system, the crossing surface at the railroad tracks  
20 themselves, the back lights on the warning mast  
21 warning motorists in both directions of an oncoming  
22 train.

1           Q     I'm going to circle -- is this a backlight  
2 on the south side of the crossing?

3           A     Correct.

4           Q     And that would flash to the people in --  
5 that are coming from the north; is that correct?

6           A     That's correct.

7           Q     And then they have backlights on the gates  
8 that are on the north side and they would flash to  
9 the people coming from the south; is that correct?

10          A     That's correct.

11          Q     Now, I'm going to show you what's been  
12 marked as Union Pacific Exhibit No. 5. Did you take  
13 this photograph?

14          A     I did.

15          Q     Okay. I had previously marked on this what  
16 looked like a yellow pipe and then said that may  
17 appear to be a gas line. Are you familiar with this  
18 utility use or device that's at the edge of the  
19 existing sidewalk on the south side of the crossing?

20          A     I know it's there. I don't know exactly  
21 what it is. I think Mr. Ramirez surmised that it may  
22 be a gas line and I think he's correct.

1           Q     Okay.  In order to accommodate the crossing  
2     that's proposed, that would have to be relocated; is  
3     that correct?

4           A     Correct.

5           Q     Now, to the left on this picture there is a  
6     black fence, which I'll highlight in red right here.  
7     Do you know what the nature of that fence is and why  
8     it's there?

9           A     I believe it was installed as part of  
10    commuter station project.  I'm not sure.  The --

11          Q     Let me ask another question.

12                     In the commuter territory, is there a  
13    program that's underway called 6DOT30, it's an  
14    acronym for?

15          A     Yes.

16          Q     Okay.  Is this a general system to put in  
17    at some location fences to try to protect individuals  
18    from crossing the railroad tracks in other than  
19    public crossings?

20          A     Not specifically fences but pedestrian  
21    diversions that may entail a fence, that is correct.

22          Q     So if this proposed sidewalk was installed

1 and this fence as it's configured remained, this  
2 would be a deterrent for people from crossing the  
3 railroad tracks at other than the sidewalk; is that  
4 correct?

5 A Yes.

6 Q Now, I mentioned earlier that there was a  
7 depression at this location. What would be the  
8 Railroad's recommendation as to the contour of the  
9 sidewalk relative to the surface at Pingree Road?

10 A Well, it should follow -- it should be  
11 brought up to the grade of the existing grade of the  
12 railroad tracks and approach it from as level a grade  
13 as possible for zoning distance as possible.

14 Q Are you generally familiar with sight lines  
15 at railroad crossings?

16 A Yes.

17 Q By raising the sidewalk as you proposed,  
18 would that affect the sight line at all for any  
19 pedestrian or anybody else that would be using the  
20 sidewalk?

21 A Yes, its purpose is to maximize the  
22 visibility of a pedestrian's visibility to see trains

1 in either direction.

2 Q And would trains come from either direction  
3 at this particular crosswalk?

4 A Yes.

5 Q Now I'll show you what's been marked as  
6 Union Pacific Railroad Exhibit No. 6. Did you take  
7 this photograph?

8 A I did.

9 Q Was it taken at the approximate same time  
10 as the other photographs?

11 A It was.

12 Q What does this show?

13 A This is the north side sidewalk area  
14 basically right just before it terminates looking  
15 south in the area where the sidewalk would be  
16 extended across the railroad.

17 Q Then the same question with regard to the  
18 contour or the level of the sidewalk, what would you  
19 suggest should be done to that when it's constructed?

20 A Well, obviously it needs to be designed and  
21 constructed to make it as pedestrian-friendly as  
22 possible. I believe Mr. Ramirez's comments that it

1 was a -- just a protective element to not have people  
2 walk through a fairly rugged piece of terrain and  
3 deter them from -- you know, to take a safer course  
4 and use the roadway.

5 Q On this photograph there appears to be  
6 several either telephone or power lines along the  
7 northern edge of the Pingree Road. To your  
8 knowledge, will those be relocated or removed as part  
9 of this project?

10 A I don't know.

11 Q Now, I'm going to show you what's been  
12 marked as Union Pacific Railroad Exhibit No. 7. Did  
13 you take this photograph also?

14 A I did.

15 Q And what does this purport to show?

16 A This is in the track area on the west side  
17 of the crossing looking eastward towards Chicago.  
18 And this berm, that we've referred to on occasion,  
19 just to show it from a point up in the northeastern  
20 quadrant there, that it's a raised area.

21 Q I'm circling this is red right now. Is  
22 that the berm area you're talking about?

1           A     Yes.  Yes.

2           Q     And when you the took the very first  
3 picture that we showed, you were standing on that to  
4 take the photograph?

5           A     That's correct.

6           Q     Now, from this photograph from where you're  
7 standing this is the site of Pingree Road at the  
8 actual sidewalk and the extension of crossing would  
9 be installed; is that correct?

10          A     Correct.

11          Q     Would the additional crossing material that  
12 would be installed by the Railroad, would it come as  
13 far as that black fence on the right-hand side?

14          A     No.

15          Q     Now, I'll show you what's been marked as  
16 Union Pacific Railroad Exhibit No. 8.  Did you take  
17 this photograph?

18          A     I did.

19          Q     Was it taken around the same time?

20          A     It was.

21          Q     What does this show?

22          A     This one we just marked the potential

1 permanent obstructions that may exist at the crossing  
2 once the project is finalized. The various power  
3 poles, the signal -- the railroad signal bungalow,  
4 Item C, which is the, I think, power drop pole from  
5 ComEd that powers up the Railroad's signal bungalow.

6 Q I'm sorry. To be more specific, I want to  
7 circle what's been marked as D on this particular  
8 exhibit. Is that the -- what is that?

9 A It's the railroad signal bungalow.

10 Q Okay. And would that be what is termed a  
11 necessary obstruction because it's required to  
12 operate the signal system?

13 A Correct.

14 Q And then you also indicate that there's a  
15 power pole I'm going to circle. It's lettered C. Is  
16 that the power pole you're referring to?

17 A Correct.

18 Q So in any event, those two devices would be  
19 necessary in order -- to remain at this crossing in  
20 order to active -- run the signal system; is that  
21 correct?

22 A Unless they went underground.

1 Q Unless underground. Okay.

2 With regard to A, B and E, are those  
3 within the control of Union Pacific Railroad?

4 A No.

5 Q And they appear to be there as public  
6 utility use?

7 A Correct.

8 Q Now, I'm going to show you what has been  
9 marked as Union Pacific Railroad Exhibit No. 9, which  
10 I think was Exhibit No. 5 from the petitioner. Is  
11 this the current condition of the signalization  
12 system and crossing at this location?

13 A Yes, it is.

14 Q Now, what is the approximate angle of the  
15 railroad tracks to Pingree Road?

16 A Approximately 55 degrees.

17 Q This is not a 90-degree intersection; is  
18 that correct?

19 A Correct.

20 Q Why is it preferred -- well, excuse me. Is  
21 it preferable to have this type of an intersection or  
22 one that's at 90 degrees?

1           A     90 degrees is preferable.

2           Q     And why is that?

3           A     90 degrees provides, again, maximum sight  
4 lines for approaching motorists and/or pedestrians to  
5 a railroad crossing.

6           Q     Okay. Now I'm going to show you what's  
7 been marked as Union Pacific Railroad Exhibit No. 10,  
8 which I think is the same as the Petitioner's Exhibit  
9 No. 6. Are you familiar with this?

10          A     Yes.

11          Q     And was this supplied to you by the  
12 Municipality?

13          A     By their consultant, yes.

14          Q     By their consultant?

15          A     That's correct.

16          Q     Is that the engineer firm?

17          A     Yes. Bollinger & Lach.

18          Q     Now, I'd like you to tell me whether or not  
19 the angle of the crossing will change in any way  
20 because of the proposed improvement.

21          A     No, it will not.

22          Q     And as currently configured will the

1 sidewalk be at the same angle as Pingree Road at the  
2 intersection with the railroad tracks?

3 A Yes, it will.

4 Q Now, we saw a photograph earlier of the  
5 existing surface of the crossing and I'm going to  
6 show you what -- okay. This is, again, referring to  
7 Exhibit -- Union Pacific Railroad Exhibit No. 4.

8 What type of crossing surface is there now?

9 A That's a concrete crossing surface.

10 Q When you say concrete surface, does that  
11 mean it's poured there or is it in panels that are  
12 prefabbed? What does that mean?

13 A They are prefabricated concrete panels that  
14 are set in place.

15 Q Okay. And in order to accommodate the  
16 proposed sidewalk, will additional panels be  
17 necessary?

18 A Yes, they will.

19 Q A bit louder.

20 A Yes, additional panels will be necessary.

21 Q How many?

22 A Our current standard panel is approximately

1 8 feet, 1 inch. So in order to accommodate the new  
2 sidewalk, we would need to extend the existing  
3 crossing by 3 panels, 24 feet.

4 Q So there will be 3 panels installed at each  
5 track?

6 A On each track, correct, with new ties.

7 Q So that would be six concrete panels will  
8 be required?

9 A Correct.

10 Q And the last of the three on each track  
11 going in a westerly direction toward Harvard, would  
12 that then extend beyond the proposed sidewalk?

13 A Yes.

14 Q Approximately how many feet?

15 A At least 3 feet. However, the Union  
16 Pacific standard is to extend the crossing surface  
17 for a minimum of 3 feet beyond the travel roadway for  
18 the sidewalk.

19 Q And based on this plan -- and you can look  
20 at it closer if it's necessary -- can you tell us  
21 what is the approximate distance from the north --  
22 excuse me -- the western edge of Pingree Road and,

1 let's say, the eastern edge of the proposed sidewalk?

2 A I believe -- at the crossing, I believe --  
3 leading up to the crossing it's about a 12-foot gap,  
4 something like that.

5 Q So there would be crossing surface of  
6 approximately 12 foot that would be visible before  
7 you would come to where the sidewalk is; is that  
8 correct?

9 A I'm sorry. Could you repeat that.

10 Q Yes.

11 There would be approximately 12 foot  
12 of crossing surface starting from the edge of Pingree  
13 Road on the western side until you came to the  
14 eastern edge of the sidewalk. So there would be  
15 12 feet of open space that would be covered with a  
16 crossing panel?

17 A We will install 24 feet of panel. The  
18 City's proposal -- there is an open space of  
19 approximately 12 feet between the western edge of the  
20 road and the beginning of the sidewalk. The sidewalk  
21 is designed to be 8 feet wide, which means that we  
22 need to provide a crossing surface for that 20 feet

1 plus an additional 3 feet, which -- and based on a  
2 standard panel, so install 24 feet of concrete within  
3 the railroad track area that will be the actual  
4 sidewalk -- you know, accommodate the pedestrians  
5 across the railroad area.

6 Q So the railroad -- excuse me -- the  
7 proposed sidewalk will be 12 -- will be 12 feet from  
8 the road?

9 A Correct.

10 Q Okay. And are you familiar with the Manual  
11 of Uniform Traffic Control Devices?

12 A Yes.

13 Q Is it commonly referred to as the MUTCD?

14 A Yes, it is.

15 Q Based on these measurements that you refer  
16 to, would this crossing and the signalization at this  
17 crossing be considered one crossing for purposes of  
18 that document?

19 A Yes, there's -- unless they've adopted a  
20 new policy regarding pedestrian paths or bike paths,  
21 which I'm not sure they have. There's -- right now  
22 there's nothing in the MUTCD that gives guidance as

1 to whether -- that the State issue this as two  
2 separate crossings.

3 Q Under the proposed guidelines, do you know  
4 what the extreme distance would be before the MUTCD  
5 would say it's two crossings?

6 A What's been proposed is if there's a  
7 separation of 25 feet, that would be considered a  
8 stand-alone crossing.

9 Q So at the location as proposed under the  
10 design, this would not exceed the proposed limits  
11 under the MUTCD?

12 A That's correct.

13 Q Okay. Will there be railroad gates on the  
14 pedestrian crossing?

15 A Yes.

16 Q Okay. Where would they be located at?

17 A They will be located on the west side or  
18 the Pingree Road station side of the sidewalk.

19 Q Can you take this marker and indicate where  
20 that is on this drawing. For purposes of the record  
21 we're referring to Union Pacific Railroad Exhibit  
22 No. 10. It's the proposed plans for the sidewalk.

1 You can indicate it on the map.

2 A Here is one and there is the other.

3 Q And so both of these signal systems will be  
4 on the west side of the sidewalk; is that correct?

5 A Correct.

6 Q And that's for both sides of the crossing?

7 A Yes.

8 Q And it will be a gate; is that correct?

9 A Yes.

10 Q To your knowledge, will there be any lights  
11 on the gate?

12 A No.

13 Q And with regard to the railroad signals  
14 that are already located at this crossing, will the  
15 backlights and front lights on those crossings be the  
16 warning device for sight purposes for any individual  
17 that's walking on the crossing or using the crossing?

18 A That's our expectation.

19 Q If this project is approved by the Illinois  
20 Commerce Commission, would you expect to receive  
21 final plans from the Municipality or Metra or a  
22 combination of the two for this particular crossing?

1           A     Yes, we still need to see the 100 percent  
2 plans and approve those before any formal  
3 construction and maintenance would be entered into.

4           Q     And once those plans are approved, then the  
5 Union Pacific would enter into a contract for a  
6 construction with whom? The Municipality?

7           A     The City of Crystal Lake.

8           Q     The City of Crystal Lake.

9                     And approximately how long does it  
10 take Pacific to review the plans?

11          A     Three to four weeks.

12          Q     Would you say that again.

13          A     Three to four weeks.

14          Q     And based on the testimony that's been  
15 given here on both sides today, will any additional  
16 right of way be needed to install the sidewalk that  
17 would be required from the Union Pacific Railroad?

18          A     No, it does not appear so.

19          Q     Who will install the crossing surface on  
20 the railroad tracks in the vicinity of the proposed  
21 sidewalk?

22          A     The Union Pacific Railroad forces.

1 Q So that will be done by the Union Pacific  
2 employees that work on track gangs; is that correct?

3 A Yes.

4 JUDGE KIRKLAND-MONTAQUE: Mr. Andryuk, would  
5 you speak up, please.

6 BY MR. SHUMATE:

7 Q In addition to installing the crossing  
8 panels, the area between the railroad tracks, would  
9 that be installed by the Union Pacific Railroad  
10 forces?

11 A Repeat that, please.

12 Q There are two tracks in this crossing;  
13 correct?

14 A Correct.

15 Q And you testified that there will be three  
16 crossing panels for each track?

17 A Correct.

18 Q If there's a space in between the two  
19 tracks, will that also be constructed by the Union  
20 Pacific Railroad?

21 A Well, typically we'd like to coordinate  
22 that with the City's contractor and have them do it

1 if that works out. Otherwise, we would contract that  
2 work out ourselves.

3 Q Now, on the edge of the crossing, on the  
4 outside leading rail of both of these tracks, how far  
5 out would the Union Pacific or its contractor  
6 actually build the proposed sidewalk?

7 A I'm sorry. Repeat that question.

8 Q Okay. After you install the crossing  
9 panels, would the Union Pacific Railroad undertake to  
10 install any of the sidewalk on either side of the  
11 crossing?

12 A I believe it's the City's intention to  
13 reconstruct the roadway all the way up to the  
14 concrete crossing panels. The last set of plans that  
15 we received did not indicate that. They were going  
16 to start a little bit further back. But in  
17 subsequent discussions they had asked to continue --  
18 to repave and reconstruct the roadway all the way up  
19 to the crossing paths --

20 Q Now, when you say "roadway," do you mean  
21 the sidewalk?

22 A The sidewalk as well, yes, as well as the

1 street area.

2 Q So as part of this entire program, the  
3 entire crossing is going to be rebuilt; is that  
4 correct?

5 A No.

6 Q What part of the roadway is going to be  
7 rebuilt?

8 JUDGE KIRKLAND-MONTAQUE: I'm sorry. I didn't  
9 hear the last part, Mr. Shumate.

10 MR. SHUMATE: Well, I'm trying to -- one  
11 second.

12 (Whereupon, a discussion was had  
13 off the record.)

14 MR. SHUMATE: If I can go back on.

15 BY MR. SHUMATE:

16 Q Is the -- part of the Pingree Road also  
17 going to be rebuilt as part of this project?

18 A Yes. My recollection is that the entire  
19 south -- south of the railroad track leg of Pingree  
20 Road all the way down to Congress Parkway, that  
21 intersection is going to be reconstructed as part of  
22 this -- and the sidewalk extension as part of that

1 project.

2 Q All right. How about on the north side?

3 A No, the original plan was to do some  
4 roadway work on the north side, but I believe that  
5 portion -- that scope of work was removed.

6 Q Okay. So now after this sidewalk is  
7 installed, if it's approved by the Illinois Commerce  
8 Commission, what portion of that crossing area with  
9 regard to the sidewalk would you expect the Union  
10 Pacific would be responsible to maintain in the  
11 future?

12 A Typically we only maintain -- I believe,  
13 it's 3 feet outside the edge of the rail.

14 Q So that's the area that's very close to the  
15 track?

16 A Yes.

17 Q And then you would expect the Municipality  
18 to maintain the sidewalk beyond that?

19 A Correct.

20 Q Would that also be the case with regard to  
21 the road surface itself?

22 A Correct.

1           Q     Mr. Andryuk, is there anything that I  
2     failed to ask you here today that you think would be  
3     helpful to the hearing officer in this case to make a  
4     decision?

5           A     No, I don't think so.

6           MR. SHUMATE:   No, further questions.

7           JUDGE KIRKLAND-MONTAQUE:   Thank you.

8                     Mr. Cowlin, do you have questions for  
9     Mr. Andryuk?

10          MR. COWLIN:   Just a couple.

11                     CROSS-EXAMINATION

12                     BY

13                     MR. COWLIN:

14          Q     I believe you indicated there's 56 commuter  
15     trains that pass over that crossing; is that correct?

16          A     Yes, sir.

17          Q     How many of those stop at the Pingree Road  
18     station, do you know?

19          A     I don't know, sir.

20          Q     Would you say that it's a vast majority of  
21     them -- since I travel --

22          A     I would think so.

1           Q     If I could just refer to the Exhibits 4 and  
2     7, which you have presented.  Once the sidewalk is  
3     completed as this has been discussed, would you say  
4     that the sight lines would be more than adequate at  
5     the crossing -- the railroad crossing for 4 and 7?

6           A     Yeah, I think for the most part.  The only  
7     issue that I could ever foresee would be for people  
8     walking south in that area in the northeast quadrant  
9     of -- the berm area is the way I referred to it.  
10    That could be the only real obstruction I could ever  
11    see.  But I think right -- once you get near the  
12    crossing, the sight lines are pretty good.

13          Q     I'm not sure if I understood your  
14    discussion as far as that last question on the  
15    maintenance of the sidewalk.

16                         Would you repeat what you said.  I'm  
17    not sure who is responsible and what you testified to  
18    as to the actual maintenance of the sidewalk or what  
19    that constituted.

20          A     My understanding has always been that the  
21    Railroad is responsible to maintain 3 feet outside of  
22    the nearest rail, which essentially encompasses the

1 crossing -- the -- what we refer to as the field side  
2 crossing panel. So where this concrete panel ends is  
3 the termination point of our maintenance. Pretty  
4 much it corresponds to the -- almost the edge of tie.  
5 If you look at this particular exhibit, Exhibit  
6 No. 4. And that's my understanding and that's what  
7 I'm referring to.

8 Q The only reason I asked that was I was more  
9 interested as the sidewalk crossing, but I -- it's my  
10 understanding I think it's going to be with those  
11 panels being extended; is that correct?

12 A Right. As we extend our panels to  
13 accommodate the sidewalk, we'll maintain the panels  
14 and the track elements under the panels. And it's my  
15 understanding that the City would be responsible for  
16 the sidewalk up to the crossing panels.

17 MR. COWLIN: Thank you. I have no further  
18 questions.

19 JUDGE KIRKLAND-MONTAQUE: Mr. Vercruysse.

20 MR. VERCRUYSSSE: Your Honor, just a few.

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CROSS-EXAMINATION

BY

MR. VERCRUYSSSE:

Q Mr. Andryuk, in terms of the existing warning devices, referring to your exhibit on the screen right now, are there bells currently in place -- audible bells?

A Yes.

Q In the northwest quadrant? The one closest to the station that you can see near the red vehicle traveling south?

A It looks -- I can see the one in the southeast quadrant. It looks as if there's one in the southwest as well. I'm looking at the FRA inventory sheet. It just -- I believe one bell is all that exists.

MR. VERCRUYSSSE: Mr. Shumate, Exhibit No. 7 might give a better view for your witness, just to clarify.

MR. SHUMATE: I can also -- when I put on my witness, which won't be very long at all, he might be able to testify better.

1           MR. VERCRUYSSSE: Thank you. I'll defer the  
2 question then to Mr. Corcoran.

3 BY MR. VERCRUYSSSE:

4           Q     In terms of the estimates that have been  
5 provided to the City so far, can you give an  
6 understanding?

7           A     Well, whatever discussions we had they were  
8 really, very loose ballpark thing. Based on the  
9 proposed layout, we have initiated signal design  
10 and I've requested track design and estimates for  
11 both -- for both the track and the signal portions of  
12 our work. I have not received them back.

13                     That was just -- we received those  
14 proposed layouts sometime in June and our -- or May,  
15 perhaps, and our signal design was initiated -- we  
16 did our field diagnostic and it went in to our Omaha  
17 design back in June. So it's in the design proces as  
18 we speak.

19                     I don't know exactly where those  
20 numbers will fall.

21           Q     Okay. But the 250,000 ballpark is what you  
22 were aware of as an initial number pending this

1 design and your cost estimate to take place?

2 A I don't recall that.

3 Q Okay. In terms of the estimate to the  
4 City, then, you anticipate, would that be available  
5 sometime in August or September?

6 A I would think closer towards the end of the  
7 year. Typically our designs are running four to six  
8 months for a signal design.

9 The track estimate should be available  
10 within a month. I would say the end of August. It  
11 would definitely have a much better idea of what our  
12 track work will cost. The signal work, probably not  
13 until, I think, November, December, but possibly  
14 earlier. But we have been seeing the design coming  
15 in as soon as four months, but I would think six  
16 months for the estimate.

17 MR. VERCRUYSSSE: Okay. Thank you very much.

18 No further questions.

19 Thank you, your Honor.

20 JUDGE KIRKLAND-MONTAQUE: Any follow-up,  
21 Mr. Shumate?

22 MR. SHUMATE: No, your Honor.

1           JUDGE KIRKLAND-MONTAQUE:  You may be excused,  
2  Mr. Andryuk, if you'd like.

3           MR. SHUMATE:  I just have a few questions for  
4  Mr. Dan Corcoran, if I can call him?

5           JUDGE KIRKLAND-MONTAQUE:  Sure.

6                           DANIEL CORCORAN,  
7  called as a witness herein, having been previously  
8  duly sworn, was examined and testified as follows:

9                           DIRECT EXAMINATION

10                          BY

11                          MR. SHUMATE:

12           Q     Would you state your name for the record,  
13  please.

14           A     Dan Corcoran.

15           Q     And would you spell that.

16           A     C-o-r-c-o-r-a-n.

17           Q     And, Mr. Corcoran, by whom are you  
18  currently employed?

19           A     Union Pacific Railroad.

20           Q     And how long have you worked for the Union  
21  Pacific Railroad and/or its railroad predecessors?

22           A     35 years.

1 Q And what department are you in?

2 A The Signal Department of Engineering.

3 Q And what's your current position?

4 A Manager of signal projects.

5 Q And are you familiar with the crossing

6 which is the subject matter of today's hearing?

7 A Yes, I am.

8 Q Are you familiar with the railroad signal

9 system for traffic warning devices at this location?

10 A Yes, I am.

11 Q Have you had an opportunity to visit this

12 site?

13 A Yes.

14 Q When's the last time you were there?

15 A Approximately two weeks ago.

16 Q There was a question asked earlier on

17 the -- let's call it the northwest quadrant. Is

18 there a bell at that particular railroad warning gate

19 and light system, do you know?

20 A I can't be for certain. I know there's one

21 on the southeast, but not for sure on the north.

22 Q Okay. Can one be installed on the other

1 side, if necessary?

2 A Yes.

3 Q As proposed for this sidewalk, will either  
4 of the existing flashing gates and lights have to be  
5 relocated as part of this project?

6 A No.

7 Q Will the ones that are currently there  
8 remain in place?

9 A Yes.

10 Q Will any modifications to the signaling  
11 system be necessary in order to install the gates  
12 that are proposed for the sidewalk?

13 A No.

14 Q Can they be integrated into the existing  
15 system?

16 A Yes.

17 Q Do you have a rough estimate of what it  
18 might cost to put in the gates as proposed based on  
19 your experience?

20 A Ballpark would probably be about 80 to  
21 90,000.

22 Q And are there -- is there any proposal to

1 put any lights on the gates as currently configured?

2 A No, there's not.

3 Q And what would serve as the light warning  
4 system at the crossing for people using the sidewalk  
5 if it's approved?

6 A The existing roadway -- gate lamp roadway  
7 lights and bell.

8 Q And that would not only be the ones on the  
9 front but that would be the ones that are the back of  
10 those stantions also?

11 A Correct.

12 Q Based on the angle of this particular  
13 intersection, will people that are riding on the  
14 sidewalk, whether on a bicycle or if they're walking,  
15 will they be able to see the lights that are on the  
16 existing stantions?

17 A I believe they will.

18 Q And what type of lights are on the  
19 stantions now?

20 A There are 12-inch LED lights.

21 Q And when you say "LED light," is there a  
22 different kind of light that could be installed?

1           A     There -- yeah, incandescent. We used to  
2     have incandescent lights.

3           Q     And is there a preference for LED lights  
4     today?

5           A     Yes.

6           Q     And why is that?

7           A     Much better light, much broader angle.

8           Q     Will any other crossings in the vicinity  
9     have to be modified in any way to accommodate the  
10    signalization that's proposed at this Pingree  
11    crossing?

12          A     No, they will not.

13          Q     What will be the time frame for the gates  
14    to be fully lowered before a train would enter this  
15    particular intersection from either direction?

16          A     15 seconds, I believe. I'm trying to  
17    remember now exactly.

18          Q     Okay.

19          A     Oh, I know. You're asking me the warning  
20    time?

21          Q     Yes, sir.

22          A     25 seconds.

1           Q     Okay.  So it would be 25 seconds -- the  
2     gates would be down 25 seconds before the train would  
3     enter the intersection?

4           A     Correct.

5           Q     And is that in accordance with an Illinois  
6     Commerce Commission order that covers this crossing  
7     currently, do you know?

8           A     I don't know for sure.

9           Q     But that is what's there now?

10          A     Correct.

11          Q     Now, Mr. Andryuk indicated that both of the  
12     new installations for the pedestrian gates will be on  
13     the western side of the sidewalk; is that correct?

14          A     Correct.

15          Q     Is that typical for this type of an  
16     installation?

17          A     Well, it's a standard we're trying to go  
18     to.

19          Q     Okay.  And I'll ask this question:  Is  
20     there anything I've failed to ask you that you feel  
21     should be brought to the attention of the hearing  
22     officer in this particular matter with regard to the

1 petition?

2 A I don't believe so.

3 MR. SHUMATE: No further questions.

4 JUDGE KIRKLAND-MONTAQUE: Mr. Cowlin?

5 MR. COWLIN: I have no questions.

6 JUDGE KIRKLAND-MONTAQUE: Mr. Vercruysse?

7 MR. VERCRUYSSSE: I have no questions, your  
8 Honor. Thank you.

9 JUDGE KIRKLAND-MONTAQUE: Okay. I just have  
10 one question then for Mr. Vercruysse on the -- kind  
11 of a general statement on Staff's position on the  
12 proposed pedestrian crossing, if you can give us  
13 that.

14 MR. VERCRUYSSSE: Sure.

15 Staff has no objection to the petition  
16 provided or presented from the City. We concur with  
17 the use of the pedestrian gates at this location.

18 In the northwest quadrant on the  
19 existing roadway gate a pedestrian bell should be  
20 added if one is not already present. That will take  
21 care of the requirements of the Administrative Code.

22 And other than that, Staff is willing

1 to draft an agreed order amongst the parties and  
2 coordinate that for submittal in filing on e-Docket  
3 to your Honor.

4 JUDGE KIRKLAND-MONTAQUE: Great. Thank you.

5 I know your exhibits were part of your  
6 petition; but for the sake of completeness, why don't  
7 you move to have them admitted into the record --  
8 petitioner's exhibits.

9 MR. COWLIN: It's acceptable, your Honor.

10 JUDGE KIRKLAND-MONTAQUE: And can you just  
11 briefly -- I know you have 1 through 4. How many  
12 were there in total, 8 or 7?

13 MR. COWLIN: There was -- or were, I should  
14 say, 3 additional exhibits. So there was a total of  
15 7.

16 JUDGE KIRKLAND-MONTAQUE: 7. Thank you.

17 So petitioner moves to admit --

18 MR. COWLIN: Yes, we move.

19 MR. SHUMATE: No objection.

20 MR. VERCRUYSSSE: No objection, your Honor.

21 JUDGE KIRKLAND-MONTAQUE: Petitioner's  
22 Exhibits 1 through 7 are admitted into evidence.

1 (Whereupon, Petitioner's  
2 Exhibits No. 1-7 were admitted  
3 into evidence.)

4 JUDGE KIRKLAND-MONTAQUE: And what about you,  
5 Mr. Shumate?

6 MR. SHUMATE: Yes, your Honor, on behalf of the  
7 Union Pacific Railroad I would like to move into the  
8 record what has been presented here as Union Pacific  
9 Railroad Exhibits 1 through and including 10, all  
10 inclusive.

11 JUDGE KIRKLAND-MONTAQUE: Any objection?

12 MR. COWLIN: No objection.

13 MR. VERCRUYSSSE: No objection.

14 JUDGE KIRKLAND-MONTAQUE: Okay. Union  
15 Pacific's -- Respondent's Exhibits 1 through 10 are  
16 also admitted.

17 (Whereupon, Respondent Exhibit  
18 Nos. 1-10 (Group 1) were  
19 admitted into evidence.)

20 JUDGE KIRKLAND-MONTAQUE: And I think that  
21 would complete our hearing today.

22 Is there anything further?

1           MR. SHUMATE:  Yes, I'm going to mention one  
2 other thing, your Honor.

3                       As the Illinois Commerce Commission  
4 reviews the plans as they're finalized, we indicated  
5 that this particular crossing is at an angle --  
6 although it's a relatively small angle -- and to look  
7 at two things:  One, the distance between the  
8 sidewalk and Pingree Road because it will be covered  
9 with an at-grade crossing made of concrete to see  
10 whether or not that poses any problem and should be  
11 addressed with either a Jersey barrier or any other  
12 type of device to prevent people from trying to drive  
13 in that area or to ride their bicycles or walk in  
14 that area.  And also whether or not this particular  
15 crossing should be reconfigured in any way to make it  
16 a 90-degree crossing.

17                       It's not something that we're  
18 suggesting.  We would just like them to take a look  
19 at the particular configuration so that it's  
20 acceptable to the Illinois Commerce Commission.  From  
21 our perspective, as already been testified to, it is.  
22 And the only reason we raise it is because it's not

1 technically a 90-degree crossing.

2 JUDGE KIRKLAND-MONTAQUE: Mr. Vercruysse.

3 MR. VERCRUYSSSE: Your Honor, I can speak to  
4 that.

5 In terms of the current design  
6 guidelines and different materials that are present  
7 for situations where you have pedestrians at highway  
8 rail crossings.

9 AASHTO, the American Association of  
10 State Highway Transportation Officials, notes that a  
11 minimum crossing angle of 45 degrees is acceptable.  
12 When you start getting into things or areas of a skew  
13 of 15 degrees or 30 degrees, you do need to try and  
14 accommodate through different measures, whether it's  
15 relining the sidewalk to provide closer to 90 degrees  
16 or in certain instances you can actually widen the  
17 sidewalk width at that area. That allows a person in  
18 a wheelchair or cyclist to negotiate the crossing,  
19 which is actually done in this example with Pingree  
20 Road because of that extra width that Mr. Shumate was  
21 representing.

22 So we have no objection to the design

1 as it stands with a 55-degree skew angle in a widened  
2 area. It accommodates cyclists and wheelchair users  
3 to the extent of the geometric alignment. Otherwise  
4 there's always been the issue present as far as the  
5 gap between flangeway and the rail, and there hasn't  
6 been a widely accepted solution to that, so there's  
7 already inherent dangers. But in terms of the  
8 geometric layout we have reviewed it and are -- have  
9 no objection or exception to it.

10 MR. SHUMATE: And we appreciate that. Thank  
11 you.

12 JUDGE KIRKLAND-MONTAQUE: Thank you very much.

13 And I will take you up on your offer  
14 to draft a draft order on behalf of all the parties,  
15 something that everybody's in agreement with,  
16 obviously.

17 So with that, I will mark the record  
18 heard and taken. And thank you very much.

19 (Heard and taken.)

20

21

22



State of Illinois T10-0080  
ILLINOIS COMMERCE COMMISSION

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(To be filed with the Chief Clerk)

MINUTES

Chicago, Illinois  
July 27, 2010

**CASE NO.:** T10-0080

**SUBJECT:** CITY OF CRYSTAL LAKE, an Illinois  
municipal corporation vs. UNION PACIFIC RAILROAD  
COMPANY,

**HEARD BY:** Ms. Latrice Kirkland-Montague, ALJ

**APPEARANCES AND ADDRESSES:**

MR. JOHN L. COWLIN  
20 Grant Street  
Crystal Lake, Illinois 60014 for the City of  
Crystal Lake;

MR. MACK H. SHUMATE, JR.  
101 North Wacker Drive, Suite 1920  
Chicago, Illinois 60606 for the UPRR;

MR. BRIAN VERCRUYSSSE  
527 East Capitol Avenue  
Springfield, Illinois 62701 for Staff

**DISPOSITION:** Heard and taken.

**EXHIBITS FILED:** Petitioner 1-7, Respondent 1-10.

**REPORTED BY:** Alisa A. Sawka CSR

**REMARKS:** Orig. to Comm. (Pages 1-80)  
Copy to Shumate and Cowlin