

ORIGINAL

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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SEP 23 2010

ILLINOIS COMMERCE COMMISSION
RAIL SAFETY SECTION

State of Illinois, Department of Transportation,)
Petitioner,)

v.)

City of Chicago (City) and Northeast Illinois Regional)
Commuter Railroad Corporation (Metra), Cook County)

T08-0149

Petition to modernize safety related traffic signal)
components, including installation of supervisory)
interconnect cables, and to install safety related pavement)
striping and signage at various City traffic signals which)
are interconnected with Metra's automatic grade crossing)
warning devices at various locations throughout the City)
of Chicago, Cook County.)

**CITY OF CHICAGO'S MOTION FOR EXTENSION OF TIME TO
COMPLETE THE PROJECT ORDERED BY THE COMMISSION**

NOW COMES The City of Chicago ("City"), by its attorney, Mara S. Georges,
Corporation Counsel, and pursuant to the Illinois Commerce Commission's Rules of Practice,
hereby moves for an extension of time to complete the project ordered by the Commission. In
support of this motion, the City states the following:

1. On October 7, 2009, the Illinois Commerce Commission issued an order requiring the
City of Chicago to complete the safety improvement work "within the one year
anniversary date of this Order, subject to ATC controller commercial availability." See,
Exhibit A, p. 5 ; Attached is the October 7, 2009 Commission Order as Exhibit A .

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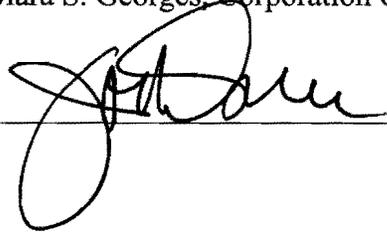
SEP 23 2010

2. Although the City of Chicago has worked diligently since the issuance of the 2009 Order, the ATC is not commercially available and therefore, the City will not be able to complete the project by October 7, 2010. Attached as Exhibit B is the City of Chicago's Railroad Crossing Interconnect Project Timeline (CDOT Project W-9-205).
3. As reflected on Exhibit B, the City of Chicago has completed the design review and approval processes and is close to completing the Job Order Contracting phase. In fact, a substantial portion of the project will be completed by October 7, 2010. However, the lead times needed to procure the ATC controllers and other various signal equipment, along with completion of the testing procedures that must be done prior to installation, will extend the completion beyond October 7, 2010.
4. The City of Chicago estimates that it should be completed with the project by December 13, 2010.
5. The City of Chicago contacted ICC Staff Stan Milewski on September 16, 2010, and Staff has no objection to the City's motion. The City has also contacted IDOT, Metra and Cook County. None of these other parties have an objection to the City's motion. It is my understanding that IDOT may be filing a formal response to the motion.

WHEREFORE, the City prays that the Commission grant, without hearings, the City of Chicago's motion and extend the time to complete the project to December 13, 2010.

Respectfully submitted,

CITY OF CHICAGO
Mara S. Georges, Corporation Counsel



Jack A. Pace
Senior Counsel
City of Chicago Department of Law
30 N. La Salle Street
Suite 1400
Chicago, Illinois 60602
312-744-6997

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

State of Illinois, Department of Transportation,
Petitioner,

v.

City of Chicago (City) and Northeast Illinois Regional
Commuter Railroad Corporation (Metra), Cook County

T08-0149

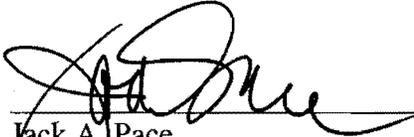
Petition to modernize safety related traffic signal
components, including installation of supervisory
interconnect cables, and to install safety related pavement
striping and signage at various City traffic signals which
are interconnected with Metra's automatic grade crossing
warning devices at various locations throughout the City
of Chicago, Cook County.

NOTICE OF FILING

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE THAT ON THIS DATE I caused to be mailed to the Illinois Commerce Commission, 527 East Capitol Avenue, P.O. Box 19280, Springfield, Illinois 62794-9280, by Federal Express, the original and three (3) copies of the City of Chicago's Motion for Extension of Time to Complete the Project Ordered by the Commission.

Dated: September 21, 2010

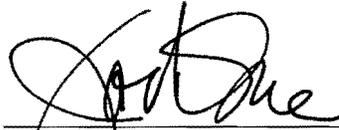


Jack A. Pace
Senior Counsel
City of Chicago
30 North La Salle Street, Suite 1400
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312-744-6997

CERTIFICATE OF SERVICE

I, Jack A. Pace, an attorney, hereby certify that a copy of the foregoing City of Chicago Motion was served upon the party or parties listed on the attached service list, by hand delivery, facsimile or by first class mail, postage prepaid, from Suite 1400, 30 North La Salle Street, Chicago, Illinois 60602, in accordance with the Rules of Practice of the Illinois Commerce Commission.

Dated: September 21, 2010



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Service List

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**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

State of Illinois, Department of Transportation,
Petitioner,

v.

T08-0149

City of Chicago (City) and Northeast Illinois Regional Commuter
Railroad Corporation (Metra); and the Municipality of Cook
County,
Respondents.

Petition to modernize safety related traffic signal components,
including installation of supervisory interconnect cables, and to
install safety related pavement striping and signage at various
City traffic signals which are interconnected with Metra's
automatic grade crossing warning devices at various locations
throughout the City of Chicago, Cook County.

ORDER

By the Commission:

On October 22, 2008, the Illinois Department of Transportation ("Petitioner" or "IDOT") filed the above-captioned Petition with the Illinois Commerce Commission ("Commission") naming the City of Chicago ("City") and the Northeast Illinois Regional Commuter Railroad Corporation ("Metra" or "Railroad") as Respondents, seeking the performance of safety improvements at various City traffic signals which are interconnected with Metra's automatic grade crossing devices at various locations throughout the City of Chicago. On June 12, 2009, pursuant to leave, IDOT filed its Amended Petition in the case adding Cook County as a Party Respondent. The Parties have discussed the issues raised by the Amended Petition and have agreed to a set of safety improvements to resolve the issues raised by and in the Amended Petition. The Amended Petition is now uncontested.

PROCEDURAL HISTORY

Pursuant to notice given in accordance with the Law and rules and regulations of the Commission, hearings were held on the Amended Petition before a duly authorized Administrative Law Judge ("ALJ") of the Commission at the Commission's Springfield and Chicago Offices on April 14, 2009, June 4, 2009 and September 10, 2009. Petitioner and the City of Chicago were represented by counsel, and Metra had a representative in attendance. Stan Milewski, Senior Railroad Safety Specialist, appeared representing the Commission's Transportation Bureau, Railroad Section ("Staff").

Exhibit "A"

Following numerous conferences, status meetings and extensive negotiations, on September 10, 2009, counsel for IDOT filed a draft agreed Order granting the Amended Petition. The terms of the Parties' agreement have been agreed to by all the Parties and approved by Staff and are incorporated herein. At the conclusion of the hearing on September 10, 2009, the record was marked "Heard and Taken."

STIPULATED FACTS

Prior to the filing of the Petition and Amended Petition herein, IDOT and the City of Chicago had entered into Agreement-Traffic Signal Interconnects ("Agreements" or "IPAs") whereby Petitioner IDOT agreed to reimburse the City for certain safety improvements at six (6) of the City's interconnected locations where traffic signals are interconnected with adjacent railroad warning devices. Six (6) additional locations were identified by the Petitioner and the City, but no agreements respecting those additional locations had been executed. At all twelve (12) locations, the automatic railroad grade crossing warning devices are governed by Metra and the highway traffic signals are governed by the City. The proposed safety improvements at each location involved interconnecting the Railroad signals with the vehicular traffic signals in order to provide a safer more convenient means of travel throughout the locations for the general public.

After the Agreements were executed, disputes arose between IDOT and the City regarding the proper scope of work and the associated estimated costs that would be reimbursed to the City by IDOT, and the safety improvements were not completed. Consequently, Petitioner IDOT filed its Petition in this matter seeking enforcement of the agreements executed for six of the crossing, and asking the Commission to determine the reasonable scope of work to be performed at the other six (6) crossing locations. IDOT further requested that the Commission apportion the costs associated with the improvements fairly and reasonably between the Parties.

The City admitted executing the Agreements identified by IDOT, although it maintained that all twelve (12) locations identified by the Petition are safe and meet reasonable safety standards.

PARTIES' AGREEMENT

To resolve this matter in a manner consistent with the public interest, the City prepared updated scopes of work and updated cost estimates for the six locations that are the subject of the written Agreements, and for three (3) of the additional six (6) locations that were identified by Petitioner as part of the second group of six. The other three (3) locations will not be addressed in this Order because two (2) of the locations identified in the second group are the subject of other planned upgrades by IDOT and one (1) location was independently improved in 2008.

The updated cost estimates have been reviewed and approved by IDOT and were admitted into evidence by agreement as City of Chicago Exhibit 1.0. The identification of the affected nine (9) crossings and updated scopes of work have been reviewed and approved by IDOT and admitted into evidence by agreement as City of Chicago Exhibit 2.0. These revised cost estimates and scopes of work shall supersede those contained in the Agreements. City of Chicago Exhibit 1.0 and City of Chicago Exhibit 2.0 will be considered the "Project" for purposes of the Order.

The City maintains that the controller equipment currently installed at all twelve (12) locations initially identified by Petitioner is reasonable and safe, but to resolve this matter consistent with the public interest, the City agrees to install ATC equipment when that equipment becomes available as a result of the City's procurement process at the nine (9) locations identified in City of Chicago Exhibit 2.0. The City has agreed to incorporate into its ATC procurement specifications the statements provided by the Commission Staff submitted to the City and admitted into evidence by agreement as City of Chicago Exhibit 3.0. The Commission Staff has reviewed the complete set of the City's ATC specifications and has no objection to their use. The City reasonably estimates that the ATC equipment will be available in time for the City to complete the work within one (1) year of the date of this Order. However, the Parties and Staff recognize that because the City will be utilizing a competitive bid process, there are circumstances beyond the City's control that may postpone the completion date for this Project. In addition, the City must develop the timing sequence pursuant to the review and concurrence process with the ICC that may impact the Project's completion date.

RESPONDENT METRA POSITION

Metra has no objection to the new scope of work for the Project that includes the nine (9) locations agreed to by the Petitioner and the City. Metra has provided the City and IDOT reasonable cost estimates for work that Metra believes it will have to perform in conjunction with the safety improvement work. IDOT and the City have advised Metra that its costs associated with these safety improvements will be paid directly by the City, with the City to be reimbursed by IDOT.

RESPONDENT COOK COUNTY POSITION

Cook County supports the scope of work and the planned safety improvements of the Project as provided by the City and approved by IDOT.

STAFF'S POSITION

Staff supports the scope of work and the planned safety improvements of the Project as provided by the City and approved by IDOT. Staff assisted the Parties in writing a draft Order to present to the ALJ herein for review and placing into final form for consideration by the Commission.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, having reviewed the entire record, finds that:

- (1) the Commission has jurisdiction over the Parties and the subject matter of this proceeding;
- (2) the Petitioner Illinois Department of Transportation is a Department of the State of Illinois which exists by virtue of the laws of the State of Illinois;
- (3) Respondent City of Chicago is a political subdivision of the State of Illinois;
- (4) Respondent Northeast Illinois Regional Commuter Railroad Corporation (Metra) is a rail carrier engaged in the transportation of either or both property and passengers for hire in the State of Illinois, as defined by the Illinois Commercial transportation Law ("Law"), 625 ILCS 5/18-c-1104(30);
- (5) Respondent Cook County is a political subdivision of the State of Illinois;
- (6) the recitals of fact and conclusions of law contained in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and conclusions of law;
- (7) it is in the interest of public safety and convenience that the safety improvement Project be undertaken that involves the nine (9) locations as identified in City of Chicago Exhibit 2.0;
- (8) the total estimated cost for the Project at the nine (9) locations described in City of Chicago Ex. 2.0 is \$1,347,000.00, as identified in City of Chicago Exhibit 1.0. The Illinois Department of Transportation had already committed \$312,000 per the IPAs previously executed and had paid the City \$13,491.60 pursuant to those IPAs. Pursuant to this Order, those IPAs will be closed and the amount of funds already paid to the City will be deducted from the total estimate cost of the Project at the nine (9) locations described in City of Chicago Ex. 2.0. Accordingly, IDOT shall reimburse the City for all actual costs of the Project at the nine (9) locations described in City of Chicago Ex. 2.0, including costs incurred by Metra, up to \$1,333,508.40. The City shall be responsible for all costs that exceed \$1,333,508.40.
- (9) the City has a planned procurement process to procure certain ATC controller equipment that will be installed as part of the safety improvements to be completed pursuant to this Order. The City has

satisfactorily included the ICC Staff requirements as part of the specifications for this process;

- (10) all work herein should be completed within the one (1) year anniversary date of this Order, subject to ATC controller commercial availability.
- (11) Chapter 625 ILCS 5/18c-1701 and 5/18c-1704 of the Law require each "person" as defined by 5/18c-1104 to comply with every regulation or Order of the Commission; these sections further provide that any person who fails to comply with a Commission regulation or Order shall forfeit to the State not more than \$1,000 for each such failure, with each day's continuance of the violation being considered a separate offense; while the Commission expects all Parties to comply with this Order in all matters addressed herein and in a timely manner, the Commission advises that any failure may result in the assessment of such sanctions;
- (12) any person making a Request for an Extension of Time up to 30 days to complete a project ordered by the Commission must file a request with the Director of processing and Information no later than 14 days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request;
- (13) Requests for Extension of Time and Petitions for Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the project will be completed. Prior to submitting a Request for Extension of Time or a Petition for Supplemental Order, the person must notify the Commission's Rail Safety Program Administrator that it is unable to complete the project within the ordered time frame;
- (14) the Commission or its Administrative Law Judge reserves the right to deny Petitions for Supplemental Orders and Requests for Extension of Time, if the reason(s) supporting the request is (are) insufficient or where it appears the person has not made a good faith effort to complete the Project within the allotted time. Failure of the Commission or Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission, that the City of Chicago is authorized to make the safety improvements in accordance with the scope of work described in City of Chicago Exhibit 2.0. All work shall be completed by the City in accordance with Findings (6) through (13) set forth above.

IT IS FURTHER ORDERED that the Illinois Department of Transportation shall reimburse the City of Chicago for all actual costs incurred by the City of Chicago, including Metra costs, for the Project at the nine (9) locations as described in City of Chicago Exhibit 2, up to \$1,333,508.40. The City shall be responsible for all costs in excess of \$1,333,508.40.

IT IS FURTHER ORDERED that for all work authorized by this Order, the City or its contractor shall assure that sufficient documentation for all its bills is made available for review by the Department or the Department's representative. The minimum documentation that must be made available is as follows:

- A.) Labor Charges (including additives)- Copies of employee work hours charged to the City (or the City's contractor) and Road District account code for the project.
- B.) Equipment Rental- Copies of rental agreements for the equipment used, including the rental rate; number of hours the equipment was used and the City (or the City's contractor) and Road District account code for the project.
- C.) Material- An itemized list of all materials purchased and installed at the crossing location. If materials purchased are installed at multiple crossing locations, a notation must be made to identify the crossing location.
- D.) Contract Construction- The City shall provide evidence of payment to contractor via a copy of all invoices indicating actual costs paid.
- E.) Engineering- Copies of employee work hours charged to the City (or the City's contractor) and Road District account code for the project.
- F.) Supervision- Copies of employee work hours charged to the City (or the City's contractor) and Road District account code for the project.
- G.) Incidental Charges- An itemized list of all incidental charges along with a written explanation of those charges.
- H.) Service Dates- Invoice should include a summary sheet showing the beginning and ending date of the work accomplished for the invoice.
- I.) Final or Progressive- Each invoice should be marked as a progressive or Final Invoice.
- J.) Reference Numbers- each invoice should include the AAR/DOT number, the ICC Order number T08-0149, the state job number D-91-886-09 for

preliminary engineering or the job number C-91-886-09 for construction and construction engineering.

K.) Locations- each invoice should show the location, with the street name and AAR/DOT crossing inventory number

IT IS FURTHER ORDERED that the City of Chicago shall complete the safety improvement work within one (1) year of the date of this Order, subject to ATC controller commercial availability.

IT IS FURTHER ORDERED that the City of Chicago, shall at six (6) month intervals from the date of this Order until the Project has been completed, submit written reports to the Director of Processing, Transportation Division of the Commission stating the progress it has made toward completion of the work herein required. Each progress report shall include the Commission Order number, the Order date, the project completion date as noted in the Order, crossing information (inventory number and railroad milepost), type of improvement, and project manager information (name, title, mailing address, telephone number and facsimile number) of the employee responsible for management of the Project.

IT IS FURTHER ORDERED that the City of Chicago shall file written notice with the Director of Processing of the date this Project is completed. This notice shall be filed within five (5) days after the completion date.

IT IS FURTHER ORDERED that the Commission shall retain jurisdiction for the purpose of issuing any Supplemental Order or Orders as it may deem necessary.

IT IS FURTHER ORDERED that in accordance with Chapter 625 ILCS 5/18c-2201 and 5/18c-2206 of the Illinois Commercial Transportation Law, this is a final Order subject to the Administrative Review Law.

By Order of the Commission this 7th day of October 2009.



CHARLES E. BOX
CHAIRMAN

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

I.C.C. Railroad Crossing Interconnect Project Timeline

CDOT Project No. W-9-205

Commission Order No. T08-0149

October 7, 2009 Order Entered by the Commission

December 9, 2009 CDOT-DE (Chicago Department of Transportation-Division of Engineering) In-House scope meeting

December 11, 2009 CDOT-DE Pavement marking and Signage scope meeting with DC (Design Consultant)

December 15, 2010 OUC (Office of Underground Coordination) information retrieval request submitted.

January 11, 2010 Draft pavement marking and signage plan submitted by DC.

January 20, 2010 CDOT In-House meeting with CDOT-DEO (Division of Electrical Operations) and CDOT-Traffic to discuss dates and project responsibilities.

January 21, 2010 CDOT-DE transmits OUC info to CDOT-DEO to install on electrical plans.

January 22, 2010 CDOT-DE meeting with design consultant for scope direction regarding pavement marking and signage plans.

January 20, 2010-January 26, 2010 ATC Signal Timing Template developed.

February 8, 2010 CDOT DE transmits Prefinal plan to OUC for facility protection.

March 12, 2010 CDOT-traffic (Nick An) transmits signal timings for 7 locations to CDOT-DE.

April 6, 2010 CDOT-DE transmits to the ICC the prefinal plans and preliminary traffic signal timing schedules for 7 project locations. CDOT-DE requests ICC review comments by May 3, 2010.

April 22, 2010 CDOT-DE transmits a second copy of the April 6, 2010 transmittal to a different address at the request of Stan Milewski (ICC).

May 25, 2010 CDOT-DE transmits preliminary traffic signal timing schedules for the 2 remaining locations. CDOT-DE requests ICC review comments by June 18, 2010.

June 25, 2010 Stan Milewski (ICC) transmits review comments via email.

Exhibit "B"

July 16, 2010 CDOT In-House meeting to discuss ICC comments and project direction.

July 20, 2010 CDOT-DE and CDOT-DEO meeting to discuss JOC (Job Order Contract) scope.

July 27, 2010 CDOT submits JOC-MOA (Memorandum of Authorization) to CDOT-Administration for approval.

August 12, 2010 CDOT-DE notified MOA approved by DPS (Department of Procurement Services)

August 18, 2010 Joint Scope Meeting with JOC Contractor. RFP (Request for Proposal) issued.

August 19, 2010 CDOT-DE transmits disposition of comments and final design plans and traffic signal timing schedules to the ICC. Copies of the final plans forwarded to IDOT, Cook County and Metra.

August 23, 2010 to September 2, 2010 JOC Contractor and CDOT-DE coordination with Metra for Right of Way Agreements.

August 25, 2010 Progen Proposal submitted by JOC Contractor.

August 27, 2010 CDOT-DE meeting with CDOT-DEO to review JOC Contractor proposal.

August 30, 2010 CDOT-DE returns comments to the JOC Contractor on proposal.

August 30, 2010 to September 9, 2010 Clarification on ATC software, controller cabinets and railroad insurance.

September 9, 2010 Revised Progen Proposal submitted by the JOC Contractor.

September 10, 2010 Revised Progen Proposal Approved.

September 17, 2010 Anticipated construction start.

October 6, 2010 All work less signal replacement and cabinet install complete.

November 4, 2010 All signal replacement complete.

December 13, 2010 All cabinet replacement complete.