

STATE OF ILLINOIS



**ILLINOIS COMMERCE COMMISSION
TRANSPORTATION DIVISION / RAIL SAFETY SECTION**

(Filed in E-Docket and e-mailed to Judge Kirkland-Montague and cc'd)

September 27, 2010

Latrice Kirkland-Montague
Chief Administrative Law Judge
Review and Examination
Illinois Commerce Commission
State of Illinois Building
160 N. LaSalle Street, Suite C-800
Chicago, IL 60601-3104

RE: T10-0099

Dear Judge Kirkland-Montague:

The attached Proposed Order is respectfully submitted for your approval and submittal to the Commission on the earliest possible date. The Proposed Order was prepared by Staff in coordination with the parties, and concurrence documentation from counsel for the Illinois Central Railroad Company is also included in the filing.

If you have any questions, or require additional information, please contact me at (847) 516-0733 or dpowers@icc.illinois.gov.

Very truly yours,

Daniel Powers

Daniel Powers, P.E.
Senior Rail Safety Specialist

Enclosure

cc: Jeremy Berman
Thomas J. Healey, IC

DP

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Central Railroad Company,	:	
Petitioner,	:	
	:	
v.	:	
	:	
Village of Matteson,	:	
Respondent.	:	T10-0099
	:	
Petition of the Illinois Central Railroad Company seeking an	:	
order of the Illinois Commerce Commission authorizing the	:	
reconstruction of a bridge that carries Petitioner's tracks	:	
over the grade-separated crossing at Front Street (DOT	:	
289676J) in the Village Matteson, Cook County, Illinois.	:	

PROPOSED ORDER

By the Commission:

PROCEDURAL HISTORY

On May 24, 2010, Illinois Central Railroad Company ("ICRR" or "Company") filed a Petition with the Illinois Commerce Commission ("Commission") in the above-captioned matter seeking an order authorizing ICRR to reconstruct a portion of a railroad-owned bridge that carries ICRR's tracks over Front Street (AAR/DOT #289 676J), in the Village of Matteson, Illinois (the "Village").

Pursuant to notice given in accordance with the law and rules and regulations of the Commission, the matter came for hearing before a duly authorized Administrative Law Judge (ALJ) of the Commission on August 25, 2010, at the Commission's offices in Chicago, Illinois. Appearances were entered by Mr. Jeremy Berman, on behalf of the Petitioner and Mr. Daniel Powers, on behalf of Commission staff. A letter of support from Mr. Brian Mitchell, Matteson Village Administrator, was entered into the record verifying the Village's support for the Petition. Exhibits showing engineering drawings and plans were presented for the record without objection. At the conclusion of the hearing the matter was marked "Heard and Taken."

PETITIONER'S EVIDENCE

Mr. Raymond Baker, Senior Manager Engineering on behalf of ICRR, testified that the bridge over Front Street runs generally north-south and consists of two structures separated by an existing gap, except for the southern most portions of the bridge. The easternmost structure currently carries one ICRR freight track, but is designed and built with bays to accommodate three tracks. The ICRR track occupies

the center bay. The westernmost structure carries one ICRR freight track and two tracks owned and operated by Northeast Illinois Regional Commuter Railroad Corporation. ICRR is seeking authorization to reconstruct the eastern structure. Reconstruction of the eastern structure will not affect the western structure or rail traffic on the western structure. Front Street is under the jurisdiction of the Village.

The reconstruction of this bridge is part of large-scale project to integrate the Elgin, Joliet and Eastern Railway Company ("EJ&E") with the ICRR. The ICRR tracks cross above EJ&E tracks approximately 1600 feet south of Front Street. Reconstruction of the Front Street bridge is necessary to construct a connecting track that will allow trains travelling either direction on ICRR to continue traveling either direction on EJ&E and vice versa. Construction of the new connecting track will improve the safety and efficiency of ICRR and EJ&E operations.

A section of the connecting track will cross over Front Street on the existing easternmost structure. The ICRR freight track will be relocated to a newly-constructed structure to be placed in the existing gap between the existing structures. Several portions of the existing easternmost structure will also be replaced to accommodate the angled path on which the new connecting track will traverse the bays of the easternmost structure.

All vertical and horizontal clearances on both structures currently comply with all Commission regulations. No clearances will be reduced as a result of ICRR's proposed reconstruction of the eastern structure.

ICRR proposes that it will pay for all construction costs of the project. If the Village requests highway crash barriers on the Front Street piers, ICRR proposes that it will pay for the installation of the crash barriers and the Village will be responsible for ongoing maintenance of the crash barriers.

RESPONDENT VILLAGE OF MATTESON'S EVIDENCE

A letter of support was entered into the record of the August 25, 2010 hearing from Mr. Brian Mitchell, Matteson Village Administrator, verifying the Village's support of the Petition.

STAFF'S POSITION

Staff believes the Petitioner's request to be fair and reasonable and should be approved by the Commission. Staff is of the opinion that highway crash barriers should be installed on the center of roadway piers of Front Street entering both sides of the Front Street bridge. Additionally, highway guardrail should be installed for the entire length between the highway crash barriers for both the north and south side of the center of roadway piers of the Front Street bridge.

COMMISSION FINDINGS AND CONCLUSIONS

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 Central Railroad Company, 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 ICTL, 625 ILCS 5/18/c-1104(30);
- 3) Respondent, Village of Matteson, is a body politic and corporate organized and existing under and by virtue of the laws of the State of Illinois;
- 4) 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;
- 5) It is in the interest of public safety and convenience that the Illinois Central Railroad Company reconstruct the railway structure (AAR/DOT #289 676J) that separates its facilities from Front Street, in the Village of Matteson, Cook County, Illinois;
- 6) The Illinois Central Railroad Company should include the installation of highway crash barriers and guardrail on the center of roadway piers of Front Street entering both sides of the Front Street bridge;
- 7) The Illinois Central Railroad Company should be responsible for all costs associated with reconstruction of the bridge and maintenance of the structure, with the exception of the proposed highway crash barriers and guardrail. The cost of installing the highway crash barriers and guardrail should be paid by the Illinois Central Railroad Company, and future maintenance costs associated with the highway crash barriers and guardrail after installation should be paid by the Village of Matteson;
- 8) The Illinois Central Railroad Company should, upon entry of this Order, proceed toward the completion of the proposed improvements, accomplishing the work with their own forces or appropriated contracted services within twenty-four (24) months from the date of this Commission Order;
- 9) 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 to comply may result in the assessment of such sanctions;

- 10) 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;
- 11) Any person making a Request for an Extension of Time that exceeds 30 days must file a Petition for Supplemental Order with the Director of Processing and Information no later than 21 days in advance of the scheduled deadline. The Commission will decide Petitions for Supplemental Orders;
- 12) 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 timeframe;
- 13) 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 Petitioner, the Illinois Central Railroad Company, is hereby authorized and directed to reconstruct the bridge that carries the Company's facilities over and across Front Street in accordance with the plans incorporated into the Company's Petition. All work shall be completed by the Illinois Central Railroad Company in accordance with Findings (6) through (13).

IT IS FURTHER ORDERED that the Illinois Central Railroad Company shall complete the reconstruction of the bridge within twenty-four (24) months from the date of this Commission Order.

IT IS FURTHER ORDERED that the Illinois Central Railroad Company shall include the installation of the installation of highway crash barriers and guardrail on the center of roadway piers of Front Street entering both sides of the Front Street bridge. Installation of the highway crash barriers and guardrail shall be completed by the Village of Matteson.

IT IS FURTHER ORDERED that the Illinois Central Railroad Company shall be responsible for all costs associated with reconstruction of the bridge and maintenance of the structure. The Illinois Central Railroad Company shall also be responsible for the installation costs associated with the highway crash barriers and guardrail on the center of roadway piers of Front Street entering both sides of the Front Street bridge.

IT IS FURTHER ORDERED that the Village of Matteson shall be responsible for the maintenance costs associated with the highway crash barriers and guardrail on the center of roadway piers of Front Street entering both sides of the Front Street bridge.

IT IS FURTHER ORDERED that the Illinois Central Railroad Company, 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 Illinois Central Railroad Company shall file written notice with the Director of Processing of the date this project is completed. This notice shall be filed within five days after the completion date.

IT IS FURTHER ORDERED that the Illinois Central Railroad Company in coordination with the Village of Matteson shall file with the Transportation Bureau's Director of Processing and Information within five (5) days after the completion of the work required under this order, a United States Department of Transportation Inventory Form (#6180.71).

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 day of 2010.

MANUEL FLORES
ACTING CHAIRMAN

From: [Jeremy Berman](#)
To: [Powers, Daniel](#)
Subject: FW: T10-0099; CN-EJE Front Street
Date: Monday, September 20, 2010 10:37:43 AM
Attachments: [090310 Proposed Order T10-0099 ICRR Petition Front Street Overpass Matteson.doc](#)
[2588_001.pdf](#)

Dan,

The proposed order is acceptable to the railroad and Matteson's concurrence with respect to the crash barriers is attached.

Please let me know if you need anything else on our end before sending to the ALJ.

Thanks for your help on this.

Jeremy Berman
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
Phone: (312) 252-1510
Fax: (312) 252-2400
Email: jberman@fletcher-sippel.com

From: Powers, Daniel [mailto:dpowers@icc.illinois.gov]
Sent: Friday, September 03, 2010 4:45 PM
To: Jeremy Berman
Cc: @ Healey, Thomas J.; Raymond.Baker@cn.ca
Subject: RE: T10-0099; CN-EJE Front Street

Jeremy:

See attached. This represents staff's approved version of the Proposed Order for the subject case. If you have any questions, feel free to call. Also, please ensure the Village of Matteson reviews and approves this Proposed Order and include their approval in the filing and submittal to the Judge.

Thanks,

Dan

Daniel Powers, P.E.
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701
(847) 516-0733

From: Powers, Daniel
Sent: Friday, September 03, 2010 2:06 PM
To: 'Jeremy Berman'

Cc: @ Healey, Thomas J.; Raymond.Baker@cn.ca

Subject: RE: T10-0099; CN-EJE Front Street

Jeremy:

I'll try to get something back to you by the 7th. A slightly modified (mostly formatting) version is being reviewed internally.

Thanks and have a good weekend.

Dan

From: Jeremy Berman [mailto:jberman@fletcher-sippel.com]

Sent: Monday, August 30, 2010 9:52 AM

To: Powers, Daniel

Cc: @ Healey, Thomas J.; Raymond.Baker@cn.ca

Subject: T10-0099; CN-EJE Front Street

Dan,

A draft order for the Front Street hearing is attached. Please review and let us know if you any comments or concerns.

We would like to get the order to the ALJ by next Tuesday, the 7th.

Jeremy Berman

Fletcher & Sippel LLC

29 North Wacker Drive

Suite 920

Chicago, Illinois 60606-2832

Phone: (312) 252-1510

Fax: (312) 252-2400

Email: jberman@fletcher-sippel.com

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ILLINOIS 60443

Municipal Center

4900 Village Commons
Matteson, IL 60443
708-283-4900
Fax: 708-748-5196
www.villageofmatteson.org

Administration

Village Administrator
708-283-4926
Office of the Village Clerk
708-283-4950
Economic Development
708-283-4940

Community Development

Building Services
708-481-8313
Fax: 708-748-2326
Community Affairs
708-283-4777
Housing Information Center
708-503-3100
Planning
708-283-4940

Finance

708-283-4900
Water Billing Services
708-283-4790

Fire Department

3445 211th Street
708-748-5129
Fax: 708-283-6606
Fire Prevention Bureau
708-283-4939
Fax: 708-748-2326

Human Resources

708-283-4949

Police Department

20500 S. Cicero Ave.
Administrative Division
708-748-4085
Fax: 708-748-7364
Non-Emergency
708-748-1564

Public Works

21146 Tower Ave.
708-748-1411
Fax: 708-503-3120
Engineering
708-283-4948
Parks Maintenance
708-720-1876

Recreational Services

4450 W. Oakwood Lane
708-748-1080
Fax: 708-748-1423

September 15, 2010

Jim Kvedaras

Director – US Government Affairs
Canadian National Railroad
17641 S. Ashland Avenue
Homewood, Illinois 60430

Dear Jim,

Thank you for your explanation of the Illinois Commerce Commission's (ICC) position regarding the installation of a new highway crash barrier and guard rail system to protect the center median pier of the Front Street bridge in Matteson, IL underneath CN's Illinois Central Railroad tracks. I understand that the ICC will order CN to purchase and pay for installation of the system, as long as the Village agrees to maintain them indefinitely at its sole cost and expense.

I have attached a photo of a barrier system already in place at our Main Street crossing. The village is willing to make its own arrangements for the installation of this system, with the understanding that any costs incurred will be reimbursed in full by CN. The Village will select a system that is as similar as possible to the attached photo, if the original manufacturer no longer produces this system.

At this time, the Village will accept ongoing maintenance responsibility for the new combination barrier and guard rail system at the center pier only. We will not accept maintenance responsibility for any stand-alone guard rails at the outside edges of Front Street. We also request additional language in the ICC order that the Village will arrange for installation of the barrier/guard rail system, and that CN will reimburse all costs to do so.

Please notify the ICC as is appropriate, copying me on your correspondence.

Sincerely,

Brian D. Mitchell
Village Administrator

Village of Matteson
4900 Village Commons
708-283-4900

Enclosure

Municipal Center

4900 Village Commons
Matteson, IL 60443
708-283-4900
Fax: 708-748-5196
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Fax: 708-748-2326
Community Affairs
708-283-4777
Housing Information Center
708-503-3100
Planning
708-283-4940

Finance

708-283-4900
Water Billing Services
708-283-4790

Fire Department

3445 211th Street
708-748-5129
Fax: 708-283-6606
Fire Prevention Bureau
708-283-4939
Fax: 708-748-2326

Human Resources

708-283-4949

Police Department

20500 S. Cicero Ave.
Administrative Division
708-748-4085
Fax: 708-748-7364
Non-Emergency
708-748-1564

Public Works

21146 Tower Ave.
708-748-1411
Fax: 708-503-3120
Engineering
708-283-4948
Parks Maintenance
708-720-1876

Recreational Services

4450 W. Oakwood Lane
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Fax: 708-748-1423

