

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

CSX Transportation, Inc., Pleasant Mound Township Road :
District, and the State of Illinois, Department of Transportation. :
: T09-0040
Stipulated Agreement regarding improving public safety at the :
King Road highway-rail grade crossing of the CSX :
Transportation's track near Smithboro, Bond County, designated :
as crossing AAR/DOT #546 513J, railroad milepost 184.20-QS. :

SECOND SUPPLEMENTAL ORDER

By the Commission:

PROCEDURAL HISTORY

On April 22, 2009, the Commission entered its Original Order in this matter requiring, among other things, Pleasant Mound Township Road District ("Road District") to reconstruct the highway approaches and CSX Transportation, Inc. ("CSX") to install automatic flashing light signals and gates with a bell, controlled by constant warning time circuitry, at the King Road highway-rail grade crossing located near Smithboro, Bond County. All work was to be completed within twelve (12) months of the Order date.

On April 21, 2010, CSX filed its First Supplemental Petition stating that, due to technical problems with the existing microcode circuits, it was unable to complete the project by the original April 22, 2010 completion date. CSX requested an extension of time, to and including October 22, 2010, within which to complete the work required by the Original Order. On June 2, 2010, the Commission entered its First Supplemental Order, granting CSX an extension of time, to and including October 22, 2010, to complete the required work.

PETITIONER'S EVIDENCE

On October 4, 2010, the Road District filed its First Petition for Extension of Time stating that due to rains and weather, funding shortcomings and personal circumstances, it was unable to complete the project by the original April 22, 2010 completion date. The Road District is requesting an extension of time, to and including August 31, 2011, within which to complete the work required by the Original Order.

On October 20, 2010, CSX filed its Second Supplemental Petition stating that, due to technical problems with the existing microcode circuits, it was unable to complete the project by the First Supplemental Order completion date of October 22, 2010. CSX requested an extension of time, to and including February 22, 2011, within which to complete the work required by the Original Order.

STAFF'S POSITION

Staff of the Rail Safety Section has reviewed the Road District's Petition for Supplemental Order and believes the request for an extension of time, to and including August 31, 2011, is reasonable and should be approved without hearing. In addition, staff has reviewed the CSX's Second Petition for Supplemental Order and believes the request for an extension of time, to and including February 22, 2011, is excessive. Staff of the Rail Safety Section believes that an extension of time, to and including December 31, 2010, would be reasonable and should be approved without hearing. I recommend entry of the attached Second Supplemental Order approving an extension of time to Pleasant Mound Township Road District, to and including August 31, 2011, and CSX Transportation, Inc., to and including December 31, 2010, within which to complete the required work of the Original Order.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, having given due consideration to the record in this case and the Petition for Supplemental Order, finds that:

- (1) The Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) The recitals of fact as set forth in the prefatory portion of this Supplemental Order are supported by the Petition for Supplemental Order and are hereby adopted as findings of fact;
- (3) Pleasant Mound Township Road District's request for an extension of time, to and including August 31, 2011, is fair and reasonable and should be granted;
- (4) CSX's request for an extension of time, to and including February 22, 2011, is excessive and should be modified to December 31, 2010, and should be granted;
- (5) All other terms and conditions of the original Order dated April 22, 2009, and the First Supplemental Order dated June 2, 2010, should remain in full force and effect, except as modified herein.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that an extension of time, to and including August 31, 2011, is hereby granted to Pleasant Mound Township Road District within which to complete the reconstruction of the highway approaches at the King Road highway-rail grade crossing of CSX Transportation, Inc.'s track, located near Smithboro, Bond County.

IT IS FURTHER ORDERED that an extension of time, to and including December 31, 2010, is hereby granted to CSX Transportation, Inc. within which to complete the installation of automatic flashing light signals and gates with a bell,

controlled by constant warning time circuitry, at the King Road highway-rail grade crossing located near Smithboro, Bond County.

IT IS FURTHER ORDERED that all terms and conditions of the original Order dated April 22, 2009, and the First Supplemental Order dated June 2, 2010, in this case shall remain in full force and effect, except as modified herein.

IT IS FURTHER ORDERED that subject to Sections 18c-2201 and 18c-2206 of the Illinois Commercial Transportation Law, this is a final decision subject to the Illinois Administrative Review Law.

By Order of the Commission this 2nd day of December 2010.



MANUEL FLORES
ACTING CHAIRMAN

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