

**STATE OF ILLINOIS**



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

*Michael E. Stead*

*Rail Safety Program Administrator*

(Filed in E-Docket and e-mailed to Judge Kirkland-Montaque and per Service)

May 11, 2011

Latrice Kirkland-Montaque  
Chief Administrative Law Judge  
Review and Examination  
Illinois Commerce Commission  
160 N. LaSalle Street  
Chicago, IL

RE: T10-0161

Dear Judge Kirkland-Montaque:

The attached Staff Brief on Exceptions with a Revised Proposed Order was filed on e-Docket today. A Word copy of the Revised Proposed Order is also provided.

If you have any questions, or require additional information, please contact me at (312) 636-7760 or [bvercruy@icc.illinois.gov](mailto:bvercruy@icc.illinois.gov).

Very truly yours,

A handwritten signature in cursive script that reads "Brian Vercruysse".

Brian Vercruysse  
Senior Rail Safety Specialist

BV



language within the **RESPONDENT GTW's POSITION** section: "GTW has not identified any record of ownership in its internal files or those records publically available. Therefore GTW cannot state that it has an ownership interest in the structure." This is highlighted on Page 3, of the revised Proposed Order, attached as Exhibit 2.

- The City of Chicago identified an error within the fourth (4<sup>th</sup>) Ordering Paragraph, Page 6. This paragraph identifies the billing/reimbursement procedures from Grade Crossing Protection Fund, and included references to an "Agreement." Staff acknowledges that the references to an "Agreement" should be removed as this language is for projects that utilize the Commission's Stipulated Agreement procedure. The changes are highlighted in the revised Proposed Order, attached as Exhibit 2.

2. Staff has also discussed the Proposed Order with counsel for the BNSF Railway Company (BNSF), and further comments were not anticipated. It is Staff's understanding that the BNSF will provide a filing noting its concurrence.

3. Staff respectfully requests that the Order be entered by the Commission on the June 2, 2011 Bench Session.

Respectfully Submitted May 11, 2011,



Brian Vercruysse, P.E.  
Senior Rail Safety Specialist  
312-636-7760  
bvercruy@icc.illinois.gov

**CERTIFICATE OF SERVICE**

I, Brian Vercruysse, Senior Rail Safety Specialist, hereby certify that on the 11<sup>th</sup> day of May 2011, I caused the foregoing STAFF BRIEF ON EXCEPTIONS to be served on attorneys/parties of record by e-filing the same with the Illinois Commerce Commission and by forwarding the same to the following at the email addresses listed below.

Jack A. Pace  
Assistant Corporation Counsel  
City of Chicago  
30 N. LaSalle St., Suite 900  
Chicago, IL 60602-2580  
[jpace@cityofchicago.org](mailto:jpace@cityofchicago.org)

Michael A. Matteucci  
Counsel - Regulatory and Real Estate  
CN  
17641 South Ashland Ave.  
Homewood, IL 60430  
(708) 332-4386 -- Phone  
(708) 332-4361 -- Fax  
[mike.matteucci@cn.ca](mailto:mike.matteucci@cn.ca)

Daniel M. Flynn  
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Springfield, IL 62704  
[dflynn@neilflynnlaw.com](mailto:dflynn@neilflynnlaw.com)

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Fletcher & Sippel LLC  
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Chicago, IL 60606-2832  
[jberman@fletcher-sippel.com](mailto:jberman@fletcher-sippel.com)

Gloria Camarena  
Assistant Chief Counsel  
Illinois Department of Transportation  
JRTC -STE 6-600  
100 W. Randolph  
Chicago, IL 60601  
[gloria.camarena@illinois.gov](mailto:gloria.camarena@illinois.gov)

**From:** [@ Flynn, Daniel](#)  
**To:** [Vercruysse, Brian](#)  
**Cc:** [Pace, Jack](#); [@ Flynn, Neil](#); [Mike.matteucci@cn.ca](#); [jberman@fletcher-sippel.com](#); [Camarena, Gloria M](#); [Blair, John](#)  
**Subject:** Re: 031811\_mes review\_T10-0161\_Draft Proposed Order\_Vert Clearance Project Kedzie Ave Chicago\_GTW BNSF CTA NS.doc  
**Date:** Thursday, May 05, 2011 2:51:57 PM

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Brian,

Norfolk Southern Railway Company has no objection to the Draft Proposed Order which was attached to your email of May 4, 2011. (See below).

However, the Draft Proposed Order uses "Norfolk Southern Railway" when referring to the entity of Norfolk Southern Railway Company. We respectfully request "Norfolk Southern Railway Company" be used consistently throughout the Order when referring to Norfolk Southern Railway Company.

Thank you,  
Daniel Flynn

On Wed, May 4, 2011 at 9:29 AM, Vercruysse, Brian <[bvercruy@icc.illinois.gov](mailto:bvercruy@icc.illinois.gov)> wrote:

Gentlemen and Ms. Camarena,

On 4/8, I had provided the ALJ a copy of the Proposed Order for distribution to all parties. To date it has not been served on the parties, and we are near the end of our 2011 Fiscal Year. With this project accounting for \$2M of our Crossing Safety Improvement Program, we would like to have an Order entered no later than June 2nd.

I would respectfully request that all parties review the attached Order, and provide your comments and concurrence so that I may submit this as an Agreed Order to the ALJ by next Friday, May 13th. I understand that there are still questions regarding the extent of ownership of the bridge, but hopefully the wording in the order can lessen any concerns.

Please let me know if there are any immediate concerns with this plan or the order itself.

Thank you very much,  
Brian

Brian Vercruysse  
Illinois Commerce Commission  
527 E. Capitol Avenue  
Springfield, IL 62701  
M 312-636-7760  
[bvercruy@icc.illinois.gov](mailto:bvercruy@icc.illinois.gov)

**From:** [Camarena, Gloria M](#)  
**To:** [Vercruysse, Brian](#); [Pace, Jack](#); [@ Flynn, Daniel](#); [@ Flynn, Neil](#); [Mike.matteucci@cn.ca](#); [jberman@fletcher-sippel.com](#)  
**Cc:** [Blair, John](#); [Camarena, Gloria M](#)  
**Subject:** RE: 031811\_mes review\_T10-0161\_Draft Proposed Order\_Vert Clearance Project Kedzie Ave Chicago\_GTW BNSF CTA NS.doc  
**Date:** Thursday, May 05, 2011 3:42:11 PM

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Brian,

IDOT has no objection to the Draft Proposed Order that you sent on May 4<sup>th</sup>.

Thank you for your help with this.

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**From:** Vercruysse, Brian [mailto:bvercruy@icc.illinois.gov]  
**Sent:** Wednesday, May 04, 2011 9:30 AM  
**To:** Pace, Jack; @ Flynn, Daniel; @ Flynn, Neil; Mike.matteucci@cn.ca; jberman@fletcher-sippel.com; Camarena, Gloria M  
**Cc:** Blair, John  
**Subject:** 031811\_mes review\_T10-0161\_Draft Proposed Order\_Vert Clearance Project Kedzie Ave Chicago\_GTW BNSF CTA NS.doc  
**Importance:** High

Gentlemen and Ms. Camarena,

On 4/8, I had provided the ALJ a copy of the Proposed Order for distribution to all parties. To date it has not been served on the parties, and we are near the end of our 2011 Fiscal Year. With this project accounting for \$2M of our Crossing Safety Improvement Program, we would like to have an Order entered no later than June 2<sup>nd</sup>.

I would respectfully request that all parties review the attached Order, and provide your comments and concurrence so that I may submit this as an Agreed Order to the ALJ by next Friday, May 13<sup>th</sup>. I understand that there are still questions regarding the extent of ownership of the bridge, but hopefully the wording in the order can lessen any concerns.

Please let me know if there are any immediate concerns with this plan or the order itself.

Thank you very much,  
Brian

Brian Vercruysse  
Illinois Commerce Commission  
527 E. Capitol Avenue  
Springfield, IL 62701  
M 312-636-7760  
bvercruy@icc.illinois.gov

**From:** [Pace, Jack](#)  
**To:** [Vercruysse, Brian](#)  
**Subject:** RE: 031811\_mes review\_T10-0161\_Draft Proposed Order\_Vert Clearance Project Kedzie Ave Chicago\_GTW BNSF CTA NS.doc  
**Date:** Friday, May 06, 2011 9:20:41 AM

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Brian:

With that sentence removed, the City concurs with the draft order. Thank you.

Jack

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**From:** Vercruysse, Brian [bvercruy@icc.illinois.gov]  
**Sent:** Friday, May 06, 2011 9:14 AM  
**To:** Pace, Jack  
**Subject:** RE: 031811\_mes review\_T10-0161\_Draft Proposed Order\_Vert Clearance Project Kedzie Ave Chicago\_GTW BNSF CTA NS.doc

Jack,

Thank you very much, and good catch. I pulled the language from our Stipulated Agreement process and didn't update/correct the language. I have removed the sentence.

Thanks again,  
Brian

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**From:** Pace, Jack [mailto:jack.pace@cityofchicago.org]  
**Sent:** Thursday, May 05, 2011 10:55 AM  
**To:** Vercruysse, Brian  
**Subject:** RE: 031811\_mes review\_T10-0161\_Draft Proposed Order\_Vert Clearance Project Kedzie Ave Chicago\_GTW BNSF CTA NS.doc

Brian:

The City concurs with the proposed Order, except I am not sure I understand the 4th ordering clause found on p. 6.

The clause refers to an "Agreement". What Agreement are you referring to? Also, it states that "The Department shall not obligate any assistance from the GCPF for the cost of proposed improvements described in this Agreement without prior approval from the Commission." I'm not sure I understand this statement. Isn't this order the requisite Commission approval that is obligating funding?

Thanks.

Jack

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**From:** Vercruysse, Brian [bvercruy@icc.illinois.gov]  
**Sent:** Wednesday, May 04, 2011 9:29 AM  
**To:** Pace, Jack; @ Flynn, Daniel; @ Flynn, Neil; Mike.matteucci@cn.ca; jberman@fletcher-sippel.com; Camarena, Gloria M  
**Cc:** Blair, John  
**Subject:** 031811\_mes review\_T10-0161\_Draft Proposed Order\_Vert Clearance Project Kedzie Ave Chicago\_GTW BNSF CTA NS.doc

Gentlemen and Ms. Camarena,

On 4/8, I had provided the ALJ a copy of the Proposed Order for distribution to all parties. To date it has not been served on the parties, and we are near the end of our 2011 Fiscal Year. With this project accounting for \$2M of our Crossing Safety Improvement Program, we would like to have an Order entered no later than June 2<sup>nd</sup>.

I would respectfully request that all parties review the attached Order, and provide your comments and concurrence so that I may submit this as an Agreed Order to the ALJ by next Friday, May 13<sup>th</sup>. I understand that there are still questions regarding the extent of ownership of the bridge, but hopefully the wording in the order can lessen any concerns.

Please let me know if there are any immediate concerns with this plan or the order itself.

Thank you very much,  
Brian

Brian Vercruysse  
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This e-mail, and any attachments thereto, is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail (or the person responsible for delivering this document to the intended recipient), you are hereby notified that any dissemination, distribution, printing or copying of this e-mail, and any attachment thereto, is strictly prohibited. If you have received this e-mail in error, please respond to the individual sending the message, and permanently delete the original and any copy of any e-mail and printout thereof.

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**From:** [mike.matteucci@cn.ca](mailto:mike.matteucci@cn.ca)  
**To:** [Vercruysse, Brian](#)  
**Cc:** [@ Healey, Thomas J.](#)  
**Subject:** Re: FW: 031811\_mes review\_T10-0161\_Draft Proposed Order\_Vert Clearance Project Kedzie Ave Chicago\_GTW BNSF CTA NS.doc  
**Date:** Wednesday, May 04, 2011 1:08:56 PM  
**Attachments:** [031811\\_mes review\\_T10-0161\\_Draft Proposed Order\\_Vert Clearance Project Kedzie Ave Chicago\\_GTW BNSF CTA NS\\_GTW Redline Revisions 05 04 11.doc](#)

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Brian:

Attached please see the few revisions I made to the GTW paragraph to reflect our unsuccessful effort to identify bridge ownership docs. I did not intend to imply definitively on the ownership issue one way or the other and I do not believe that the revisions do so.

Please let me know if you take issue with the revisions....I did not make revisions to any other paragraph. I am in agreement with the order inclusive of my changes.

Our bridge engineers do want to see the final stamped plans and calculations which you did originally include in the GTW paragraph of the draft order.

Thanks Brian....please let me know if you require anything further of GTW at this point.

Mike

Michael A. Matteucci  
Counsel - Regulatory and Real Estate  
CN  
17641 South Ashland Ave.  
Homewood, IL 60430  
(708) 332-4386 -- Phone  
(708) 332-4361 -- Fax  
[mike.matteucci@cn.ca](mailto:mike.matteucci@cn.ca)

\*\*\*\*\*  
The information in this message is confidential and may be protected by the attorney-client privilege. If you are not the intended recipient, any use, copying or reproduction of this document is prohibited. Please advise us of this error and destroy this message.

From: "Vercruysse, Brian" <bvercruy@icc.illinois.gov>  
To: "Mike.matteucci@cn.ca" <Mike.matteucci@cn.ca>  
Date: 05/04/2011 09:43 AM  
Subject: FW: 031811\_mes review\_T10-0161\_Draft Proposed Order\_Vert Clearance Project Kedzie Ave Chicago\_GTW BNSF CTA NS.doc

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Mike,

Thanks for the phone calls. I thought it had been sent out...

Please feel free to elaborate in the GTW Position section to clarify your research.

Brian

**From:** Vercruysse, Brian  
**Sent:** Wednesday, May 04, 2011 9:30 AM  
**To:** Pace, Jack; @ Flynn, Daniel; @ Flynn, Neil; Mike.matteucci@cn.ca; jberman@fletcher-sippel.com; 'Camarena, Gloria M'  
**Cc:** Blair, John  
**Subject:** 031811\_mes review\_T10-0161\_Draft Proposed Order\_Vert Clearance Project Kedzie Ave Chicago\_GTW BNSF CTA NS.doc  
**Importance:** High

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I would respectfully request that all parties review the attached Order, and provide your comments and concurrence so that I may submit this as an Agreed Order to the ALJ by next Friday, May 13<sup>th</sup>. I understand that there are still questions regarding the extent of ownership of the bridge, but hopefully the wording in the order can lessen any concerns.

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Thank you very much,  
Brian

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time for the railroad's to review the City's proposed structural plans, and to assess the level of jurisdiction each railroad has relative to the viaduct.

On March 17, 2011, a second Hearing was held via video conference from the Commission's Chicago and Springfield offices. Petitioner, Respondent Railroads, and Respondent Illinois Department of Transportation (Department or IDOT) were all represented by counsel. Brian Vercruysse also appeared on behalf of Staff.

### **PETITIONER'S EVIDENCE**

The City requested an Order from the Commission authorizing the vertical clearance safety improvements at the Kedzie Avenue viaduct. The Commission's crossing database currently identifies the grade separated highway-rail crossing as GTW (AAR/DOT #283 128B, railroad milepost 8.12), and the IHB (AAR/DOT #326 829M, railroad milepost 15.00). In its Petition, the City further identified that the BNSF and NS may have some degree of ownership of the viaduct. This is further discussed in the Respondent Railroads' Position sections of this Order.

In its Petition, the City further requested the Grade Crossing Protection Fund (GCPF) be used to pay a substantial portion of the cost. By lowering the elevation of the Kedzie Avenue roadway pavement from 47<sup>th</sup> Place to 51<sup>st</sup> Street, the improvement will increase the vertical clearance under the railroad structure from 13'-2" to 14'-6", thereby significantly reducing the possibility of trucks hitting the railroad structure. The viaduct is currently signed with 13'-0" clearance. With the lowering of the pavement, the project will include the installation of a 7 ft. by 7 ft. box culvert, drainage structures, replacement of a 12 inch water main, concrete curbs, sidewalk and new street lighting. With the installation of the box culvert on the east side of Kedzie to replace the existing storm sewer, structural modifications to the bridge footings are needed. Upon completion of the project, the maintenance responsibilities for Kedzie Avenue and the bridge will remain unchanged.

During the hearing held on March 17, 2011, the City provided the testimony of Anthony Rainey, Project Manager for the City, and Jeffrey Orzech and Jerry Gap, consultant engineers from GRAEF, engineering consulting firm for the City.

Mr. Rainey testified as to the contents of the City's Petition, and provided the purpose and need for the project. Mr. Rainey indicated that trucks have been stuck under the bridge, and that the City has received numerous requests from the trucking industry and commercial entities to improve the vertical clearance to allow for all trucks traveling on Kedzie Avenue which is designated as a truck route. Mr. Rainey also discussed the latest construction cost estimate of \$4,993,387. Of this amount, the City is requesting the GCPF contribute \$2,000,287. The City will be responsible for the remaining costs. Mr. Rainey further testified that the City would like to start the work in 2012 and complete it by the end of 2012.

Mr. Orzech, Project Engineer for GRAEF testified as to the construction plans and scope of work, which includes lowering the pavement, and the relocation of public and private utilities. With the relocation of these utilities there will be work performed to the

bridge foundation/footings to insure that there are no negative impacts to the structural integrity of the bridge. Currently, there is a large sewer located under the bridge's center pier. The sewer is mainly comprised of brick. The footing for the pier straddles this sewer. This will be filled-in with concrete and reinforcement, and a new 7 ft. x 7 ft. box culvert will be installed under the eastern lanes for Kedzie Avenue to provide for the needed storm water drainage.

Mr. Gap, Structural Engineer for GRAEF testified as to the need to provide additional support to the center pier foundation, and the sidewalk pier on the east side of Kedzie Avenue. Mr. Gap noted that with the amount of pavement and earth to be excavated, there is a need to install micro-piles to support the foundations along the sidewalk pier, and there is a need to fill-in the large sewer under the center pier. With the proposed concrete and reinforcement filling the sewer under the center pier, the foundation will have a greater bearing capacity. Lastly, Mr. Gap testified as to the general staging of the project and the coordination that has occurred to insure the feasibility of installing the micro-piles under the viaduct. As with the City's previous witnesses, Mr. Gap noted that the project will not affect train operations during or after construction.

### **RESPONDENT GTW'S POSITION**

The GTW indicated that it owns a track on the bridge. GTW has not identified any record of ownership of the bridge in its internal files or those records publically available. Therefore GTW cannot state that it has an ownership interest in the bridge structure. In general, the GTW has no objection to the City's Petition, but requests that final plans with engineer's seal and structural calculations are provided for the GTW's final review and concurrence prior to construction.

### **RESPONDENT IHB'S POSITION**

Via e-mail correspondence to the City, the IHB indicated that it does not have any ownership of the bridge or any track on the bridge.

### **RESPONDENT NS'S POSITION**

The NS indicated that it has an easement from the GTW to own and operate a track on the bridge. The NS has no objection to the City's Petition and proposed project.

### **RESPONDENT BNSF'S POSITION**

The BNSF indicated that is owns the two northern most tracks on the bridge, as a result of a purchase from Conrail in 1997. The BNSF has no record of ownership of the bridge, but has provided comments to the City relative to the structure plans. With the City addressing these comments, the BNSF has no objection to the City's Petition and proposed project.

### **RESPONDENT DEPARTMENT'S POSITION**

The Department has no objection to the Petition, and supports the project.

### **STAFF'S POSITION**

Staff supports the project and recommends that assistance from the GCPF be authorized to reimburse the City in an amount not to exceed \$2,000,287 for the costs associated with lowering the Kedzie Avenue pavement under the railroad viaduct carrying the tracks of the GTW, NS, CTA, and BNSF (between 47<sup>th</sup> Place and 51<sup>st</sup> Street).

### **PROPOSED ORDER**

A Proposed Order granting the Petition was filed and served upon all Parties and Staff on May 5, 2011.

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 City of Chicago, Illinois, is a political subdivision of the State of Illinois;
- (3) The Indiana Harbor Belt Railroad Company, the Grand Trunk Western Railroad, the BNSF Railway Company, and the Norfolk Southern Railway Company are rail carriers 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);
- (4) The Illinois Department of Transportation is a Department of the State of Illinois, which exists by virtue of the laws of the State of Illinois;
- (5) 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;
- (6) It is in the interest of public safety and convenience that City of Chicago lower the elevation of the Kedzie Avenue roadway pavement in accordance with the plans included with the City's Petition, to improve the vertical clearance under the elevated structure that carries the tracks of the Grand Trunk Western Railroad, the BNSF Railway Company, the Norfolk Southern Railway Company, and the Chicago Transit Authority (between 47th Place and 51st Street);
- (7) The construction cost estimate for the project is \$4,993,386. It is fair and reasonable that the Secretary of the Illinois Department of Transportation,

through the Grade Crossing Protection Fund of the Motor Fuel Tax Law, should be directed to pay an amount not to exceed \$2,000,287 to reimburse the City of Chicago. The City of Chicago should be responsible for the remainder of the costs;

- (8) The maintenance responsibilities for Kedzie Avenue and the viaduct should remain unchanged with this Order;
- (9) All work should be completed within thirty-six (36) months from the date of Commission Order;
- (10) 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;
- (11) 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) 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;
- (14) 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;
- (15) 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 lower the elevation of the Kedzie Avenue roadway pavement in accordance with the plans included with the City's Petition, to improve the vertical clearance under the elevated structure that carries the tracks of the Grand Trunk Western Railroad, the BNSF Railway Company, the Norfolk Southern Railway Company, and the Chicago Transit Authority (between 47th Place and 51st Street). The work shall be completed by the City in accordance with Findings (4) through (15).

IT IS FURTHER ORDERED that the Secretary of the Illinois Department of Transportation through the Grade Crossing Protection Fund of the Motor Fuel Tax Law is directed to pay an amount not to exceed \$2,000,287 to reimburse the City of Chicago for the construction costs associated with improving the vertical clearance of Kedzie Avenue under the elevated structure that carries the tracks of the Grand Trunk Western Railroad, the BNSF Railway Company, the Norfolk Southern Railway Company, and the Chicago Transit Authority (between 47th Place and 51st Street).

IT IS FURTHER ORDERED that all work shall be completed within thirty-six (36) months from the date of this Order.

IT IS FURTHER ORDERED that all bills for work authorized for reimbursement from the Grade Crossing Protection Fund shall be submitted to the Department's District 1 Office, located at 201 W. Center Court, Schaumburg, IL 60196. The Department shall send a copy of all invoices to the Director of Processing and Information, Transportation Bureau of the Commission. All bills shall be submitted no later than twelve (12) months from the completion date specified in this Order. The final bill for expenditures from each party shall be clearly marked "Final Bill". The Commission shall, at the end of the 12<sup>th</sup> month from the completion date specified in this Order or any Supplemental Order(s) issued for this project, conduct a review to determine if any unused assistance from the Grade Crossing Protection Fund should be de-obligated. Upon completion of the review, the Commission shall notify the Department to de-obligate all residual funds accountable for installation costs for this project. Notification may be by regular mail, electronic mail, fax, or phone.

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 days after the completion date.

IT IS FURTHER ORDERED that any person making a Request for Extension of Time up to thirty (30) days to complete a project ordered by the Commission must file a request with the Director of Processing no later than fourteen (14) days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request.

IT IS FURTHER ORDERED that any person requesting an Extension of Time which exceeds thirty (30) days must file a Petition for Supplemental Order with the Director of Processing no later than twenty-one (21) days in advance of the scheduled deadline. The Commission will decide Petitions for Supplemental Orders.

IT IS FURTHER ORDERED that 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 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.

IT IS FURTHER ORDERED that the Administrative Law Judge reserves the right to deny Requests for Extension of Time and Petitions for Supplemental Orders if the reason(s) supporting the request is 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 Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

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 2<sup>nd</sup> day of June 2011.

DOUGLAS P. SCOTT  
CHAIRMAN