

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

The Department of Transportation of the State of Illinois, for and	:	
on behalf of the People of the State of Illinois,	:	
Petition,	:	
	:	
v.	:	T13-0003
	:	
Union Pacific Railroad Company; Kansas City Southern Railway	:	
Company; and Unknown Owners,	:	
Respondents.	:	
	:	
Petition for approval of the taking or damaging of certain property	:	
owned by a common transportation carrier in St. Clair County,	:	
Illinois by exercising the right of eminent domain. Parcel No.	:	
8015114PE, Parcel No. 8015114TE-A & B; Job No. R-98-015-00.	:	

PROPOSED STIPULATION

By the Commission:

PROCEDURAL HISTORY

On January 7, 2013, the Department of Transportation of the State of Illinois (Petitioner or IDOT) filed the above referenced Petition with the Illinois Commerce Commission (“Commission”) naming as Respondents Union Pacific Railroad Company (UP), Kansas City Southern Railway Company (KC); and Unknown Owners, to approve the taking of certain property in St. Clair County, Illinois, by exercising the power of eminent domain (Parcel No. 8015114PE, Parcel No. 8015114TE-A & B; Job No. R-98-015-00).

Pursuant to notice as required by law and the rules and regulations of the Commission, a hearing on the Petition was held on February 25, 2013, before a duly authorized Administrative Law Judge of the Commission at the Commission’s office in Springfield, Illinois. Appearances were entered on behalf of Petitioner, UP and KC. A member of the Railroad Section of the Transportation Division of the Commission (“Staff”) also appeared. At the conclusion of the February 25, 2013 hearing, the case was marked “Heard and Taken.”

The parties and Staff subsequently filed documents by which each waived a Proposed Order, and each agreed to a Stipulation supplementing evidence at hearing and agreeing to terms for an order, which are made a part hereof.

PETITIONER'S EVIDENCE

Cheryl Keplar testified for IDOT. She is the Condemnation Engineer for IDOT's District 8 office. IDOT is engaged in a project to build a bridge which will carry Interstate Route 70 over the Mississippi River. As part of this project, part of Route 70 near the river bridge is being relocated. Illinois Route 3 is also being relocated in the area. IDOT intends to construct an overpass bridge to carry Ill. Route 3 over railroad tracks.

IDOT requests a permanent easement on the property on which the overpass bridge will be built. IDOT requests two temporary easements that will facilitate construction. The property sought for the permanent easement is between the properties sought for the two temporary easements.

The property on which the permanent and temporary easements are sought is legally described in Exhibits A and B, respectively, and depicted in Exhibit C. UP and KC stipulated that they are co-owners of the property. Ms. Keplar testified that IDOT was unsuccessful in negotiations to obtain the clear full rights sought.

UNION PACIFIC POSITION

Union Pacific Railroad Company does not object to an order granting the relief requested.

KANSAS CITY SOUTHERN RAILWAY COMPANY

Kansas City Southern Railway Company does not object to an order granting the relief requested.

STAFF POSITION

Staff stated no objection to the Petition.

PROPOSED ORDER

The Parties and Staff waived issuance of a Proposed Order.

COMMISSION ANALYSIS AND CONCLUSION

The Commission is of the opinion that it is fair and reasonable to approve the Illinois Department of Transportation's request to proceed to exercise its power of eminent domain to take a permanent easement and temporary easements requested.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, after a review of the entire record, finds that:

- (1) the Commission has jurisdiction of the subject matter hereof and the Parties hereto;
- (2) the recitals of fact set forth in the prefatory portion of this Order are supported by the evidence of record and are hereby adopted as findings of fact;
- (3) Petitioner seeks approval to take the following property rights jointly owned by Union Pacific Railroad Company and Kansas City Southern Railway:

A permanent easement in Parcel No. 8015114PE legally described in Exhibit A for the construction, operation and maintenance of a public highway thereon, which shall not unreasonably interfere with rail operations;

A temporary easement in Parcel No. 8015114TE-A & B legally described in Exhibit B, for construction purposes relating to the improvements proposed by IDOT, which temporary easement shall terminate four years from the date it is vested in IDOT or upon completion of construction whichever occurs first;

- (4) Petitioner presented evidence as to the ownership of the property by Respondent, and the efforts made to obtain the necessary easements;
- (5) the evidence shows that construction of the improvement project can be carried out without substantial interference with the conduct of rail carrier operations;
- (6) the Petitioner should be granted authority to exercise its power of eminent domain to acquire the easements set forth in Finding (3) hereinabove.

IT IS THEREFORE ORDERED that the approval of the Illinois Commerce Commission be, and the same is hereby, granted to the Department of Transportation of the State of Illinois, for the purpose of exercising its power of eminent domain to acquire the easements set forth in Finding (3) hereinabove.

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

END OF STIPULATION