

**Docket No.:** T12-0062  
**Bench Date:** October 2, 2013  
**Deadline:** N/A

**MEMORANDUM**

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**TO:** The Commission

**FROM:** Timothy Duggan, Administrative Law Judge

**DATE:** September 18, 2013

**SUBJECT:** Norfolk Southern Railway Company, Big Mound Township Road District, Wayne County Highway Department, and the State of Illinois, Department of Transportation.

Stipulated Agreement regarding improving public safety at the 1625E Road/TR 394 highway-rail grade crossing of the Norfolk Southern Railway Company's track near Fairfield, Wayne County, Illinois, designated as crossing AAR/DOT #724 725D, railroad milepost 114.98-W.

**RECOMMENDATION:** Enter Order authorizing Supplemental GCPF Funds

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On May 2, 2012, the Commission entered its original Order requiring Big Mound Township Road District (Township) and the Norfolk Southern Railway Company (Company) to make improvements at the 1625E Road/TR 394 highway-rail grade crossing near Fairfield, Wayne County, Illinois. The Company has completed its work, including signal installation and crossing surface widening. The Township's approach rehabilitation work is not required to be completed until November 2, 2013.

On March 20, 2013, the Company filed a Petition for a First Supplemental Order which was withdrawn on the Company's own Motion without objection. On August 15, 2013, the Company filed a Second Petition for a First Supplemental Order requesting an additional and final payment from the Grade Crossing Protection Fund (GCPF) in the amount of \$35,776.70 which is 95% of signal installation cost overruns associated with unanticipated time delays and larger than anticipated work crews needed to complete the work.

Commission Staff reviewed the Company's documentation in support of its request and believes it is fair and reasonable to approve the request using the 95% GCPF - 5% Company cost division as agreed in Stipulated Agreement 1659 (SA 1659) and approved in the original Order. While SA 1659 contained a GCPF "not to exceed" (NTE) limit of \$187,401 for the Company's required work, Section 5, Note 1 of SA 1659 also states "*any installation costs above the total estimated amount of \$197,264 will be divided in the*

*same percentages noted above, upon submittal and review of evidence to support the additional cost and subject to approval by the Commission.”*

Staff therefore recommends that additional GCPF assistance should be approved to pay 95% of the unanticipated additional costs incurred by the Company, in an amount not to exceed \$35,776.70. Staff further recommends that the additional GCPF amount should be final and no further GCPF assistance should be allowed in this docket.

The attached Supplemental Order so provides. No hearing was held on the Petition. Staff and all Parties filed a stipulation to the facts, findings, conclusions, and ordering paragraphs contained in this Supplemental Order, and each waived a Proposed Order.

I recommend that the Commission enter the attached Supplemental Order authorizing the additional GCPF contribution.