

**Docket No.:** T13-0078  
**Bench Date:** 10/02/13  
**Deadline:** N/A

**MEMORANDUM**

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**TO:** The Commission

**FROM:** Latrice Kirkland-Montaque, Chief Administrative Law Judge

**DATE:** September 23, 2013

**SUBJECT:** State of Illinois, Department of Transportation  
Petitioner,

v.

Norfolk Southern Railway Company,  
A Virginia corporation,  
Respondent.

Amended Petition for approval of the taking or damaging  
of certain properties owned by transportation common  
carrier in Cook County, Illinois by exercising the right of  
eminent domain.  
Job No R-90-017-11; Parcel 0J70021PE & TE

**RECOMMENDATION:** Enter Order granting the Amended Petition.

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On July 17, 2013, the Department of Transportation of the State of Illinois (the "Department") filed a Petition for Approval of Eminent Domain with the Commission, pursuant to Section 735 ILCS 30/10-5-10 of the Eminent Domain Act of Illinois ("the Act"). The Petition requests Commission approval to take and/or damage certain properties owned by Norfolk Southern Railway Company ("NS"), a transportation common carrier subject to the jurisdiction of the Commission. On August 28, 2013, the Department was granted leave to file its Amended Petition with the Commission. The Amended Petition changes the proposed fee simple title taking of Parcel 0J70021 to a proposed permanent easement for public highway purposes as to Parcel 0J70021PE.

The Department is engaged in a project to improve U.S. Route 30 at the NS and Canadian National ("CN") railroad crossings in Cook County. The project requires the acquisition of Parcel No. 0J70021PE and 0J70021TE to be acquired as a permanent easement for highway purposes and a temporary easement, respectively, as described in the Amended Petition.

The project to improve U.S. Route 30 at the NS and CN railroad crossings in Cook County involves construction of a grade separation improvement and other related highway improvements along and adjacent to U.S. Route 30 at the NS and CN crossings in Cook County (the "Grade Separation Improvement") and thereby constitutes a public purpose. The NS is the title holder to certain real property legally described in the Amended Petition. The Department has deemed it necessary to construct the Grade Separation Improvement in Cook County and improve vehicular traffic and the safety of the motoring public. The Department's Plat of Highways depicting the property rights to be acquired is set forth in Exhibit C attached to the Amended Petition. The Department has been authorized to acquire the title it seeks in these parcels, and it is necessary for the Department to acquire said property to effect the described improvements.

The Department has been unable to acquire the title it needs from NS to complete this project and therefore seeks to acquire the property under the eminent domain laws of Illinois. Section 10-5-10 of the Act requires the Department to obtain Commission approval prior to the taking or damaging of NS's property. The Department requests that the Commission approve the taking of this property by exercise of the right of eminent domain.

The attached Order finds that the work to be done by the Department at U.S. Route 30 and the NS and CN railroad crossings in Cook County is fully within the public interest and clearly constitutes a public purpose as contemplated the Eminent Domain Act. The Order grants approval to the Department to acquire the property interest described in the Amended Petition and designated as Parcel No. 0J70021PE and 0J70021TE.

Staff and the NS support the Department's Amended Petition. I recommend entry of the attached Order granting the Amended Petition.