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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
ILLINOIS CENTRAL RAILROAD COMPANY,)
)
Petitioner,)
)
vs) No. T14-0105
)
WILL COUNTY,)
)
Respondent.)

Petition of the Illinois Central)
Railroad Company seeking an order of)
the Illinois Commerce Commission)
authorizing the modification of an)
existing grade separation structure)
that carries tracks over Brandon)
Road (DOT 289773T) by adding a)
third span for a third rail at that)
location parallel to the existing)
tracks and spans near Joliet in)
Unincorporated Will County, Illinois.)

Chicago, Illinois
October 28, 2014

Met pursuant to notice at 10:00 a.m.

BEFORE:

LATRICE KIRKLAND-MONTAQUE, Administrative Law
Judge.

1 APPEARANCES:

2 FLETCHER & SIPPEL LLC, by
3 MR. MICHAEL J. BARRON, JR.
4 29 North Wacker Drive, Suite 920
Chicago, Illinois 60606
(312) 252-1500
Appearing on behalf of the Petitioner;

5 OFFICE OF JAMES W. GLASGOW
6 WILL COUNTY STATE'S ATTORNEY, by
MR. PHILIP A. MOCK
7 57 North Ottawa Street
Joliet, Illinois 60432
8 (815) 727-8872
Appearing on behalf of the Respondent;

9 MR. DANIEL POWERS
10 527 East Capitol Avenue
Springfield, Illinois 62701
11 (847) 516-0733
Appearing on behalf of Staff.

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22 SULLIVAN REPORTING COMPANY, by
Tracy L. Overocker, CSR

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Examiner</u>
Paul LaDue	7	16			
Eric Bullerman	17	36,49	50	53	35
Bruce Gould	59	65			
<u>Rebuttal</u>					
Paul LaDue	70				

E X H I B I T S

<u>Petitioner</u>	<u>For Identification</u>	<u>In Evidence</u>
No. 1	15	16
No. 2	34	34

1 JUDGE KIRKLAND-MONTAQUE: By the power vested
2 in me by the State of Illinois and the Illinois
3 Commerce Commission, I now call Docket No. T14-0105.

4 This is in the matter of the Illinois
5 Central Railroad Company, Petitioner, versus Will
6 County, Respondent. And this is a petition of the
7 Railroad seeking an order of the Commission
8 authorizing the modification of an existing grade
9 separation structure that carries tracks over Brandon
10 Road by adding a third span for a third rail at that
11 location parallel to the existing tracks near Joliet,
12 Will County, Illinois.

13 May I have appearances, please. Let's
14 start with Illinois Central.

15 MR. BARRON: Good morning, your Honor. On
16 behalf of Illinois Central Railroad Company, I am
17 Michael Barron, M-i-c-h-a-e-l B-a-r-r-o-n, I'm with
18 the law firm Fletcher, F-l-e-t-c-h-e-r, & Sippel,
19 S-i-p-p-e-l, 29 North Wacker, Suite 920, Chicago,
20 Illinois 60606-2832, phone number (312) 252-1500.

21 I'll have two witnesses today. To my
22 right is Mr. Eric Bullerman and to my left is

1 Mr. Paul LaDue.

2 JUDGE KIRKLAND-MONTAQUE: Thank you.

3 Will County.

4 MR. MOCK: Assistant State's Attorney Philip
5 Mock for Will County. P-h-i-l-i-p M-o-c-k. Address
6 is 57 North Ottawa Street, Joliet, Illinois 60432,
7 phone number (815) 727-8872. And I have a witness,
8 Bruce Gould, the Will County highway engineer.

9 JUDGE KIRKLAND-MONTAQUE: Okay. Why don't we
10 have all the witnesses stand and raise your right
11 hands.

12 (Witnesses sworn.)

13 JUDGE KIRKLAND-MONTAQUE: You may be seated.
14 And, I'm sorry, appearing from Staff?

15 MR. POWERS: Daniel Powers, Illinois Commerce
16 Commission Staff, 527 East Capitol Avenue,
17 Springfield, Illinois 62701 and the phone is
18 (847) 516-0733.

19 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

20 Mr. Barron --

21 MR. BARRON: Yes.

22 JUDGE KIRKLAND-MONTAQUE: -- I will allow to

1 you go since it's your petition and you can start
2 proceeding.

3 MR. BARRON: I will go ahead and call -- my
4 first witness will be Mr. Paul LaDue.

5 And just for information, Judge, I had
6 submitted a number of exhibits a week in advance. I
7 may or may not refer to all of them; but one in
8 particular I know I will refer to -- we put on a
9 poster board is a blowup of an overhead shot. There
10 were some minor changes that we had. We indicated an
11 ownership milepost here between UP and CN and we made
12 changes to the legend, but otherwise, it's the same
13 exhibit that was submitted a week in advance and I
14 flagged that issue with the County and --

15 MR. MOCK: We have no objection.

16 MR. BARRON: -- Mr. Mock indicated there was no
17 objection.

18 JUDGE KIRKLAND-MONTAQUE: Okay.

19 MR. BARRON: And this is just for demonstrative
20 purposes anyway.

21 JUDGE KIRKLAND-MONTAQUE: All right.

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PAUL LADUE,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY

MR. BARRON:

Q Paul, what I'm going to do is, I'm going to put it right here and when you need to refer to it, just let me know and I'll come over and hold it for you as you're referring to it.

A All right.

Q Mr. LaDue, could you please state and spell your name for the record.

A Paul E. LaDue, P-a-u-l; last name L-a-D-u-e.

Q Mr. LaDue, who is your current employer?

A Illinois Central Railroad Company.

Q Mr. LaDue, could you please give me your educational background?

A I have a bachelor's degree in accounting and a master's degree in finance.

Q And is Illinois Central Railroad Company

1 referred to as CN?

2 A It is.

3 Q Mr. LaDue, could you please describe your
4 work experience?

5 A I have 36 years experience with CN in a
6 variety of different positions. I spent 2 years in
7 Car Management, 7 years in Accounting, 4 years in
8 Treasury as assistant treasurer, 3 years in Asset
9 Utilization -- and these were all with different
10 subsidiary companies of the CN in the U.S. -- 5 years
11 as a manager of Joint Facilities, 5 years as
12 interline director of Management and in my current
13 position for the last 10 years as the region director
14 of Contracts Administration.

15 Q Could you please then describe your current
16 role?

17 A I'm responsible for the negotiation,
18 preparation, administration of all the interlining
19 joint facility track leases, operating agreements
20 between CN and the other operating railroads in the
21 U.S.

22 Q And what territory does your responsibility

1 cover?

2 A All of the states that we operate in the
3 U.S.

4 Q And does your territory include the
5 property in question in this proceeding,
6 specifically, the rail operations over Brandon Road?

7 A It does.

8 Q And it may be helpful at this point for the
9 next question to go ahead and refer to the overhead,
10 but -- if you need to -- can you describe the freight
11 operations that currently operate over Brandon Road
12 and it may be important to clarify which railroad
13 operates on which track and also indicate if there
14 are any passenger operations?

15 A Currently, we handle approximately 40 UP
16 coal trains that operate into the Midwest Generation
17 facility, 20 loaded trains and 20 empty trains a
18 month and those trains come onto the CN line up at
19 West Chicago, operate down through our connection
20 here through Joliet Yard and come back down onto what
21 we call our Joliet Sub.

22 Those trains continue down until they

1 reach, approximately, this point here, which is
2 approximately mileage 35 and at that point the
3 ownership changes to UP. So UP owns this line from
4 this point forward and as they pass through Joliet
5 through the connection that we call UD Tower, which
6 is where Metra trains cross the UP lines, the UP line
7 splits. This line continues down as their high-speed
8 line to St. Louis. This line continues over towards
9 Midwest Gen facility.

10 So those 40 trains that we handle
11 today, 20 in and out, that is the route that they
12 take and operate down into Midwest Gen. We own
13 tracks starting with approximately 39.43, this is
14 where our ownership begins again from the UP. The UP
15 owns up to this point. CN owns from 39.43 down to
16 the end of this track and several years ago, we
17 leased this track to the UP to provide an opportunity
18 for staging of the coal trains. As the business
19 increased, the UP needed a location to be able to
20 stage their traffic and that's how the UP trains
21 operate in and out of Midwest Gen today.

22 Q And just to confirm, there is no passenger

1 operation on these lines?

2 A There's no passenger operation on this
3 portion of the line after the split. The Amtrak,
4 obviously, operates up from St. Louis on this main
5 line portion.

6 Q Mr. LaDue, are you familiar with the
7 project that has been planned for the new track and
8 new span over Brandon Road?

9 A I am.

10 Q And could you please describe the
11 operational changes that will be happening as part of
12 the project? In particular, describe what operations
13 will take place on the new span, why it is needed and
14 what customers will be serviced as part of the
15 operation and what kind of volume and frequency you
16 anticipate.

17 A We anticipate from our Marketing Department
18 and from their conversations with CenterPoint that
19 they'll be -- eventually be one loaded train, one
20 empty train per day. So roughly 60 trains per month.

21 In order to make sure that we don't
22 have a conflict or jeopardize our current service or

1 the UP's current service to Midwest Gen, there will
2 be a new line that will be built adjacent to the
3 existing line in order to get down to service the
4 North Laraway Bulk Terminal and that location where
5 that line will begin is at mileage 39.23 which puts
6 that connection far enough to the east or to the
7 north so that it will not conflict with the UP trains
8 that are staged in the lower area here for Midwest
9 Gen.

10 Q And could you describe the benefits, both
11 to rail operations and customers, of this project.
12 In particular, what will change or be helped on the
13 current tracks and what may happen if the project for
14 the new span over Brandon Road is not authorized?

15 A Well, if the new span over Brandon Road
16 it's not authorized and the switch was to be
17 installed along this section closer to Midwest Gen,
18 we'd have a conflict with the center line or the
19 CenterPoint trains coming into the Joliet terminal
20 versus the trains that are trying to be staged there
21 for Midwest Gen and what that would cause is for one
22 train or the other to have to be staged further back.

1 For instance, UP would end up having to hold coal
2 trains back at its West Chicago Yard, that would not
3 be able to advance them down unless this is clear.
4 So the reason that we're putting the switch back --
5 this far back is to be able to ensure that there's no
6 conflict with the trains down here where we would not
7 have to regulate one train in at a time and cause any
8 disruptions to the service to either Midwest Gen or
9 to the bulk terminal facility.

10 Q And, of course, if it's located -- if the
11 switch were to be located west of Brandon Road, if a
12 UP train is sitting there, are you able to operate
13 trains into and out of the new bulk terminal
14 facility?

15 A No.

16 Q And, Mr. LaDue, can you give us input on
17 the timing of this project?

18 A The proposed timing is early first quarter
19 of 2015. I mean, we are -- all of the parties and
20 all of the partners are trying to work towards a
21 January -- end of January date on this project and
22 we're hoping that the materials and the workforces

1 will bring that together by that time frame. There's
2 a lot of moving pieces here in terms of who is doing
3 what as far as the workload goes; but generally
4 speaking, we're shooting as best as we can towards an
5 end of a January date knowing that not all the work
6 may be completed until the first quarter, but we're
7 hoping enough of it will be completed so that we can
8 actually start service to the facility the end of
9 January.

10 Q And, Mr. LaDue, to your knowledge, is there
11 any public funding involved in this project?

12 A As far as I know, it's all private sources
13 I'm not aware of any public funding.

14 MR. BARRON: If you give me one second, that
15 may be all the initial direct questions I have for
16 Mr. LaDue. Those are all the direct questions I have
17 for Mr. LaDue subject to redirect. What I'd like to
18 do is go ahead and admit what that overhead poster
19 was as our first exhibit in the hearing. When I sent
20 the documents on the 21st of October, that was the --
21 actually, the very first exhibit in that set of
22 documents that I mailed on the 21st. I'd like to go

1 ahead and make that Petitioner's Exhibit 1 and we'll
2 leave the poster board here as part of the record.

3 MR. MOCK: No objection.

4 JUDGE KIRKLAND-MONTAQUE: No objection from
5 Staff?

6 MR. POWERS: No objection.

7 JUDGE KIRKLAND-MONTAQUE: Do you have another
8 paper copy, by chance?

9 MR. BARRON: You know, what I can do is -- what
10 I'll do, Judge, a small paper copy, I can give you.

11 THE WITNESS: Mike?

12 MR. BARRON: You've got that? There we go.

13 JUDGE KIRKLAND-MONTAQUE: That would be --

14 MR. BARRON: There we go.

15 JUDGE KIRKLAND-MONTAQUE: This is 1?

16 MR. BARRON: That is 1, yep.

17 (Whereupon, Petitioner's Deposition
18 Exhibit No. 1 was
19 marked for identification.)

20 JUDGE KIRKLAND-MONTAQUE: Okay. So
21 Petitioner's Exhibit 1 is admitted subject to
22 cross-examination of the witness.

1 (Whereupon, Petitioner's
2 Exhibit No. 1 was
3 admitted into evidence.)

4 MR. BARRON: Okay. And those are all the
5 questions I have for Mr. LaDue. So I tender him for
6 cross-examination at this time.

7 JUDGE KIRKLAND-MONTAQUE: Mr. Mock?

8 MR. MOCK: We have no questions.

9 JUDGE KIRKLAND-MONTAQUE: Mr. Powers?

10 MR. POWERS: Just a couple questions.

11 CROSS-EXAMINATION

12 BY

13 MR. POWERS:

14 Q As far as the elevation of the new track,
15 how is that determined in the whole project scheme as
16 far as --

17 A I don't have the engineering technical --

18 Q Okay.

19 A -- responses for that.

20 MR. POWERS: All right. Okay. No questions.

21 JUDGE KIRKLAND-MONTAQUE: Anything else,

22 Mr. Barron?

1 MR. BARRON: Nothing else at this time, your
2 Honor, for Mr. LaDue.

3 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. LaDue, you
4 can step down.

5 THE WITNESS: Thank you.

6 MR. BARRON: I'd like to go ahead and call my
7 next witness, Mr. Eric Bullerman.

8 ERIC BULLERMAN,
9 called as a witness herein, having been previously
10 duly sworn, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY

13 MR. BARRON:

14 Q Mr. Boulder man, could you go ahead and
15 state and spell your name for the record.

16 A Eric Bullerman, E-r-i-c, B-u-l-l-e-r-m-a-n.

17 Q Mr. Bullerman, who is your current
18 employer?

19 A AECOM Technical Services, Inc.

20 Q What services do they provide?

21 A Engineering consulting services of various
22 sorts.

1 Q And if you could, just so the reporter gets
2 you down, go ahead and speak as loud as you can until
3 you're done and if you anticipate an answer to a
4 question that I give, wait for me to ask the question
5 anyway so the reporter can go ahead and get
6 everything down.

7 Can you give a sample of the projects
8 AECOM has done and the clients that they support or
9 that you support?

10 A Projects that I have done in the past
11 include work for Metra and the UP North Line in
12 Chicago, Illinois; Norfolk Southern and the Port
13 Perry Bridge in Duquesne, Pennsylvania; the BNSF and
14 Rosebud siding in Montana; Chicago Union Station;
15 various railroad projects throughout the United
16 States. AECOM recently has been working on the
17 Chicago Circle Interchange recently renamed the Jane
18 Byrne Interchange and other major infrastructure
19 projects.

20 Q So AECOM, besides rail projects also really
21 covers the transportation field; is that correct?

22 A That is correct.

1 Q Mr. Bullerman, could you go ahead and give
2 me your educational background including all degrees
3 you have earned?

4 A I graduated Lyons Township High School,
5 1995; bachelor of science, civil engineering,
6 University of Illinois, 1999.

7 Q And what professional certifications do you
8 have and in what states?

9 A I'm a licensed professional engineer in the
10 states of Illinois, Indiana and Alabama.

11 Q Could you describe your work experience in
12 the engineering field?

13 A Well, I have 15 years of experience,
14 everything from survey design and construction of
15 roadway, rail projects.

16 Q Could you describe in some detail, just
17 give me a sample of railroads that you have worked
18 for, what projects and in what locations?

19 A Including the aforementioned projects, I've
20 worked for the CN; the Matteson Connection Project in
21 Matteson, Illinois; Gary Airport Relocation Project,
22 CREATE P1 Grade Separation Project.

1 Q Where was the CREATE P1 Grade Separation
2 Project?

3 A That's roughly 63rd and State.

4 Q Is that, by chance, referred to as the
5 Englewood Flyover?

6 A Yes.

7 Q And could you describe your duties with
8 regard to the proposal at Brandon Road in Will
9 County? And to the extent necessary you need to
10 refer to the map, please do.

11 A I'm the project manager for the project for
12 AECOM.

13 Q And as the project manager, what have you
14 done for this project?

15 A I worked with and coordinated the design
16 efforts of our civil structural teams, coordinated
17 efforts with the Illinois Central and other parties
18 that are involved, including communications with Will
19 County.

20 Q And, in particular, what were you
21 commissioned to do and what have you done, if you may
22 give me some chronology for this project?

1 A We were Commissioned to design a new siding
2 from the UP right-of-way to -- and through -- if you
3 wouldn't mind?

4 Q If you want to, just actually go ahead and
5 hold it up right there and point out to it, but don't
6 draw on it, though.

7 A We were commissioned to design for Illinois
8 Central a new siding with a connection off of the UP
9 for roughly 7,000 feet until the new railroad went
10 off of the railroad right-of-way. That was it.

11 Q And when did you start working on this
12 project, roughly?

13 A We were awarded the project in April 2014.

14 Q And currently what is the status of the
15 project and what is your current involvement?

16 A The project is in construction and our
17 contract with Illinois Central is complete.

18 Q And currently the construction project, you
19 are doing that on behalf of who?

20 A We are assisting the developer with
21 permitting services and answering our -- request for
22 information as the engineer of record.

1 Q Who is the developer?

2 A CenterPoint.

3 Q And just for purposes of reference, this
4 one I do not have blown up on a poster board, but it
5 was -- this is an exhibit of 60 percent construction
6 plans. Just so you have a reference to it, it was
7 part of the submittal on the 21st of October, I think
8 it's the second part of that submittal, it was also
9 part of the petition that was filed in the matter.

10 And, Mr. Bullerman, could you go ahead
11 and discuss the project in detail, in particular,
12 what is there currently, what has been designed and
13 what alternatives may have been considered in how you
14 arrived at the current proposal that's pending today?

15 A Currently, there are two existing railroad
16 spans for two railroad tracks. We were -- as part of
17 our project designing a new railroad span for the
18 third track to support the new line.

19 As part of our design efforts -- as
20 part of the previous question was the elevation of
21 the track from the new project scheme, our elevation
22 was decided on by where our new switch was located

1 off the UP and running a new profile to Brandon Road.
2 The elevation and profile of that design was a
3 question, so I communicated with Bruce Gould as to
4 what our clearance could be. There wasn't much
5 difference between the top rail and the bottom of the
6 structure, so that wasn't a variable. The variables
7 that we had were track offsets from the existing
8 track and the clearance from Brandon Road.

9 Then we continued onward from Brandon
10 Road onward to tie into design and to the CenterPoint
11 development.

12 Q And then -- so you had issues with regard
13 to profiles and clearance and whatnot. What are some
14 of the alternatives that were considered and how did
15 you arrive at the current design proposal?

16 A Well, the alternatives that were
17 considered, we started off with 18-, 21- and 25-foot
18 track centers. The closer we are to the existing
19 railroad tracks, the least impacts we had in terms of
20 land acquisition, retaining wall construction, it was
21 better in terms of costs and construction for the
22 project.

1 Also, too, with Brandon Road, there is
2 a vertical profile from off of Des Plaines River up
3 to the south. So the further away that we placed our
4 track and the bridge, the higher elevation that
5 bridge would-- we'd have and for our track profile
6 and back.

7 So we developed the three concepts as
8 part of our 30 percent design and passed that along
9 to the Illinois Central for their input.

10 Based on what they saw in the plans,
11 profiles and cross sections, we decided to change
12 the -- well, proceed with the 18-foot offset.

13 Q And the 18-foot offset, you've talked about
14 the issue with the vertical clearance if you had a
15 further offset. Now that you've got the 18-foot
16 offset, what is the proposed height of the new span
17 compared to the current spans?

18 A It's 3 inches higher.

19 Q 3 inches, higher, okay.

20 And the original concept, I think you
21 said, had a higher vertical clearance. What are some
22 of the concerns with a higher vertical clearance with

1 the new span?

2 What are some of the issues that might
3 be -- that might manifest themselves if you had a
4 higher span at that location compared to the two
5 existing spans?

6 A Well, when you have a -- when you look at
7 the track profiles, the proposed track compared to
8 the existing track, you have ballast differences
9 running off from the proposed track to the new track.
10 With our proposed design, there is a 2-foot elevation
11 difference.

12 You have a walkway between the
13 existing span and the proposed spans and construction
14 issues there.

15 You have a drainage issues with the
16 spans, so we tried to minimize those.

17 Q Why would a higher span result in ballast
18 runoff?

19 A Well, rather than like a 2 to 1 ballast
20 runoff which -- what we have in our current design,
21 when we have an extra foot with our 18-foot offset,
22 we actually had to go to a 1 and a half to 1 down

1 sloop to edge of tie in our design to even make it
2 work, which was unacceptable to the railroad.

3 Q Why would it be unacceptable?

4 A Well, for the general maintainers and the
5 people that operate on the railroad, that isn't a
6 typical working condition for them.

7 Q What does ballast do?

8 A It's supporting aggregate for the railroad
9 track.

10 Q So it supports the railroad track. What
11 else does it do?

12 A It's -- aggregate that trainmen are walking
13 on and --

14 Q If the ballast --

15 A -- it's an open graded stone for water to
16 flow through --

17 Q Okay. So it's --

18 A -- it's a general --

19 Q Go ahead, finish your sentence.

20 A It's good general material for use.

21 Q Okay. So it supports the track bed and it
22 also is meant to direct water, what, away from the

1 tracks?

2 A Yes.

3 Q Okay. So it's a drainage enhancer as well?
4 Is that another way of saying it?

5 A Yes.

6 Q Okay. So when the ballast is running off
7 from a higher track to a lower track, what are some
8 of the risks that might be enhanced in that
9 situation?

10 A Well, you're directing the water towards
11 the existing main line track, so there is additional
12 maintenance that would occur on that --

13 Q Is there -- when you put additional water
14 onto a track or have ballast runoff, are you
15 concerned about track integrity?

16 A Of course.

17 Q Okay. And when track integrity is bad,
18 what are some things that could happen?

19 A Continual maintenance, taking the track out
20 of service to make sure that it's operating
21 correctly.

22 Q If you have --

1 A Safety concerns.

2 Q Okay. And then is it -- in terms of a
3 track profile -- this is not just the span, but the
4 entire length of the new siding, is it better to have
5 the tracks at an even height -- relatively even
6 height or separate heights?

7 A The same elevation, even height.

8 Q And why is that?

9 A If you're intro- -- we have one turn out
10 where the tracks are at the same height. In terms of
11 drainage, construction, generally for construction
12 with the subgrade, you are not introducing any
13 pockets for water to be retained. For the workmen to
14 cross the tracks, you're not introducing any tripping
15 hazards.

16 Q And you talked about walkways. Given the
17 track centers, would -- what kind of walkway issues
18 might you have if there is a higher elevation for one
19 track compared to the other two tracks?

20 A Well, just the crews, the maintainers, the
21 inspectors that are walking along side the cars that
22 will be on the mainline track will have to go up

1 2 feet from the existing grade to the proposed
2 structure to walk across. So they will be walking on
3 this open graded ballast.

4 Q When they're walking alongside, do you have
5 any issues if you have one higher track and one lower
6 track?

7 A No.

8 Q So there's not -- I mean, if you've got,
9 what -- let me make sure here -- if you've got a
10 track center of 18 feet and you've got to walk
11 alongside and you've got -- one track is higher, are
12 there any walkway issues that you'd be concerned
13 about?

14 A Well, you try to provide a walkway path for
15 all your inspectors and even zero percent grade
16 surface for them to walk along from off the edge of
17 the tie.

18 In the case of this design, we weren't
19 able to provide that walking surface with the
20 increased elevation, so we had to reduce it as much
21 as possible to give the inspectors and the
22 maintenance crews some semblance of a walking path.

1 Q And, Mr. Bullerman, with the current
2 design, what are the proposed clearances for the new
3 span?

4 A The proposed clearance for the new span is
5 12 feet, 9 inches.

6 Q And is there a vertical -- is there a
7 protection beam for the proposed --

8 A Yes.

9 Q -- new span?

10 Go ahead.

11 A Yes.

12 Q Okay. And what is the -- with the
13 protection beam -- sometimes maybe also referred to
14 as a sacrificial beam -- what is that vertical
15 clearance?

16 A The proposed clearance, 12 feet, 6 inches.

17 Q And what are the existing clearances for
18 the current spans?

19 A On the record drawings we have for the CN,
20 the clearance for the two spans are 12 feet, 6 inches
21 and they're posted at 12 feet, 1 inch.

22 Q And on the current spans, is the

1 sacrificial beam even with a structural beam?

2 A Yes.

3 Q And on the proposed span is the sacrificial
4 beam lower than any structural beams?

5 A Yes.

6 Q Mr. Bullerman, have you reviewed Will
7 County's pleading in this matter?

8 A Yes.

9 Q And have you had a chance to review their
10 response?

11 A Yes.

12 Q And what issues or concerns come to your
13 mind after having read Will County's response?

14 A Can I see my notes?

15 Q Well, actually, you know, I tell you what,
16 did Will County's pleading raise an issue with regard
17 to our proposed vertical clearance of the new span?

18 A Yes.

19 Q What is your view about the impact on
20 safety -- think in terms of roadway safety now at
21 this point -- with regard to the proposed new span?
22 What are some of the things that might change?

1 A Well, in regards to roadway safety, nothing
2 is changing in terms of southbound traffic because
3 our new span is on the south side. In terms of
4 northbound traffic, it's an improvement because if
5 any trucks were to hit a beam, they will be
6 hitting -- well, 12 feet, 9 or less, they'll be
7 hitting just the beam there will be less reciprocal
8 damage to the spans them selves.

9 Q Okay. Now, if a truck hit one of the beams
10 on the current spans, what might happen?

11 A Because they're at the same elevation,
12 there is increased reciprocal damage of the span
13 being impacted with the beam.

14 Q So that the current design of the new
15 span -- this is for clarification -- is what you're
16 saying is the current design of the new span actually
17 minimizes or decreases the risk to the structural
18 integrity of the span?

19 A Yes. In my opinion.

20 Q In terms of -- if the new span were to be
21 at 13, 9 and the current spans were to stay the same,
22 would there be any change in the recovery time to get

1 the road and bridge back in service if we had the
2 span at 13, 9 versus the 12, 9 or 12, 6 clearance as
3 you proposed?

4 A I mean, the existing spans will continue to
5 get hit as much as they are today.

6 Q But if -- in your scenario you talked about
7 if -- if the new span -- the sacrificial beam was
8 hit, since the -- since as you said you are lowering
9 the risk to an impact on the structural integrity of
10 the bridges, what would that do for recovery time?

11 A Any northbound traffic, if they were to hit
12 the new span and beam, it would take less time to
13 reset the beam in the proposed condition than it
14 would in the existing state and condition. So there
15 is less of a downtime for Brandon Road with the
16 proposed design.

17 JUDGE KIRKLAND-MONTAQUE: For northbound
18 traffic?

19 THE WITNESS: For northbound traffic. There is
20 no change for southbound traffic.

21 BY MR. BARRON:

22 Q And would any of these benefits as you

1 described be realized if the new span was raised to a
2 higher level than proposed?

3 A No.

4 MR. BARRON: At this point, I believe I am
5 finished with my initial examination of
6 Mr. Bullerman. I think I'd like to go ahead and
7 enter as an exhibit that item, No. 2, which would
8 have been the 60 percent construction drawings that
9 were both attached to the pleading and attached to
10 the exhibits that I filed last week. I'd like to go
11 ahead and enter those as Exhibit No. 2.

12 JUDGE KIRKLAND-MONTAQUE: Any objection?

13 MR. MOCK: No objection by the County.

14 JUDGE KIRKLAND-MONTAQUE: Petitioner's Exhibit
15 2 is admitted.

16 (Whereupon, Petitioner's
17 Exhibit No. 2 was marked
18 and admitted into evidence.)

19 JUDGE KIRKLAND-MONTAQUE: Are you tendering the
20 witness for cross?

21 MR. BARRON: I am tendering the witness for
22 cross.

1 JUDGE KIRKLAND-MONTAQUE: I have a question --
2 two questions to help me understand.

3 EXAMINATION

4 BY

5 JUDGE KIRKLAND-MONTAQUE:

6 Q What's -- how far is the center of the
7 proposed track from the closest point of the existing
8 track from the center of the existing track?

9 A They are 18 feet on the center.

10 Q Okay. And you were asked about differences
11 in the elevation. If the elevation of the proposed
12 span is much higher, say, 13, 9 and the problems --
13 the issues that it would cause for the existing two
14 spans, would the higher span in term of the ballast,
15 is there any possibility of that shifting or moving
16 down onto the lower elevation span if it's much
17 higher or -- I don't know how ballast works exactly.
18 Is there any chance of it, you know, shifting and
19 falling onto the railroad tracks?

20 A There is additional structural work for the
21 abutments and back walls to help retain that ballast
22 from falling down onto the existing bridge span, but

1 at some point, you'll have to allow the ballast to
2 fall off of your existing track structure down to the
3 adjacent -- yeah, the adjacent track.

4 JUDGE KIRKLAND-MONTAQUE: Okay. All right. So
5 Mr. Mock, do you have any questions for the witness?

6 MR. MOCK: Yes. Thank you.

7 CROSS-EXAMINATION

8 BY

9 MR. MOCK:

10 Q I have some questions about the ballast and
11 this stuff, too. I'm not as familiar with the
12 railroads as I probably should be and definitely not
13 as much as you.

14 You said there is 18-foot offset from
15 design from center to center of track. How wide is
16 the track?

17 A The track gauge is 5 feet.

18 Q Okay. So you'd have 2 and a half feet on
19 one track, 2 and a half feet on the other track to
20 the edge from the centers, there would be 13 feet in
21 between these two tracks? From the closest track to
22 each other, there would be 13 feet between them?

1 A Well, you also have to consider the timber
2 ties, which are 8 and a half foot timbers.

3 Q Okay.

4 A And you have the ballast shoulders, which
5 help contain the ties from shifting laterally as the
6 train moves. So the actual distance from -- off of
7 the ballast shoulders from one track to another is
8 where you consider the ballast slope.

9 Q And what is the distance between the two in
10 your design at 18 feet at the widest part right by
11 the -- I assume the widest part is where it crosses
12 the road?

13 A The widest part is where it crosses the
14 road, but with just east and just west of the bridge.

15 Q And how wide would it be between the two
16 sets of ties then, approximately?

17 A That is -- I'm just going to do a real
18 quick calc. 18 minus -- there is 7 feet between the
19 shoulders.

20 Q And if there's 7 feet between the shoulders
21 and if you're -- if the design was instead of 12
22 feet, 9 inches for the new span, say it was 13, 9 in

1 order to have it be 13, 6 clearance, it would be
2 1 foot higher in between the two?

3 A There's a -- you have to take into
4 consideration the additional elevation that we
5 already had from Brandon Road itself. So -- can I
6 see Exhibit 2 to help me see because I have a table
7 on here?

8 Just on a 2 to 1 slope, every foot of
9 elevation, you require an extra 2 feet of width if
10 you are going to maintain a 2 to 1 slope. So if we
11 are going to go up 1 foot and maintain our 18-foot
12 differences, you either have to increase our slope to
13 maintain that width or you have to introduce a
14 retaining wall or some sort of structure to maintain
15 it.

16 Let's see we what we have here. Ah,
17 here we go. So with our current design, our
18 elevation differences between the tracks is
19 2.31 feet. So if we were to raise the track an
20 additional foot, the difference would be 3.31 feet.

21 Q And -- so it would be 1 foot higher than
22 what it is now?

1 A Correct.

2 Q And that extra foot higher would some how
3 be a detriment to your workmen traversing an extra
4 foot higher over an 8-foot -- or a 7-foot width?

5 A Yes. Correct. There's considering a
6 fouling zone from off of the track. So once you
7 introduce a train car on top of the track, that would
8 actually be overhanging from off of the end of the
9 tie and then you're already into the ballast slope.
10 So your walkmen would be walking along this sloped
11 ballast surface next to the train cars doing an
12 inspection and that is something that no one wants to
13 have their inspectors do.

14 Q And how often do the inspectors inspect
15 while the cars are in place on the track?

16 A Daily.

17 Q They walk along the train daily?

18 A I believe so.

19 Q Wouldn't the train be moving in that
20 location or would it be parked?

21 A No. They're parked and that's actually one
22 of the reasons that the switch has to be so far east

1 is so that we're not disrupting any of the operations
2 for Midwest Gen and the Illinois Central.

3 Q And that would be the Midwest Gen cars, the
4 new track, the trains wouldn't be parked on that,
5 would they?

6 A I've had inspections out on the project and
7 there's been cars sitting on the CN main.

8 Q No, I mean the proposed track, when I say
9 "new track"?

10 A No. The new track, that will always be
11 clear for the new trains that will be going in and
12 out of the new bulk terminal.

13 Q So you wouldn't have to worry about the
14 train overhanging on that side when they did their
15 inspection from that edge, you'd only have to worry
16 about the trains overhanging from the existing
17 tracks?

18 A Yeah, the concern is more for the
19 railroad's standpoint for the inspectors on the
20 existing main line for the adjacent track work.

21 Q And isn't that a problem that could, in
22 fact, be engineered away by having a retaining wall

1 or a step system instead of just a graduate slope
2 track?

3 A We'll have to look at the additional
4 considerations that would be taken into account.

5 Q Well, just -- and I'm not trying to pin you
6 down to this particular project, but just as a
7 general engineering issue, could it not be engineered
8 away where you could have it -- same graduate slope
9 next to the track where they could inspect the
10 existing tracks and then some type of retaining wall
11 or step system to support the higher track and that
12 one could be inspected when the train wasn't on the
13 track?

14 A Not -- not with this close of a track
15 spacing of 18 feet. In general, when you have this
16 much of an elevation difference with an inspection,
17 you try to increase the track spacing or you decrease
18 the elevation difference.

19 Q Could you have done it with the 21-foot
20 spacing that you considered or the 25-foot spacing
21 that you considered?

22 A Considering the additional retaining wall

1 and property acquisition that was involved, it was
2 undesirable.

3 Q Is that saying cost prohibitive when you're
4 saying "undesirable" or from an engineering
5 perspective undesirable?

6 A Engineering standpoint.

7 Q What would be the difference with that? If
8 you had more width in between, wouldn't it be easier
9 to make the inspections?

10 A Well, there's other project considerations
11 besides Brandon Road that we are taking into account
12 along the 7,000 foot project.

13 Q And what would be some of those other
14 conversations?

15 A There is Wetlands that was about
16 three-tenths of a mile to the east, they were trying
17 to limited impacts to that to get a U.S. Army Corps
18 permit. We got our Army Corps permit in three days
19 considering the improvements that we did on the
20 project, which is a record time. Those permits
21 usually take months.

22 We had -- going through the Midwest

1 Generation site, there was overhead conveyer belts
2 and walkways that we're trying to avoid structurally.

3 Q Wouldn't the wider -- the farther away from
4 the track, wouldn't you be farther away from the
5 conveyer belts?

6 A As we go closer in towards the existing
7 track, we're limiting our horizontal clearance from
8 them. We're trying to stay as far away from the
9 conveyer belts and --

10 Q So the conveyer belts go over the tracks?

11 MR. BARRON: Let him finish the question --
12 answer -- let him finish answering the question,
13 please.

14 THE WITNESS: The overhead conveyer belts are
15 no issue vertically in clearance, but where their
16 supports are, there are issues with horizontal
17 clearance to them.

18 BY MR. MOCK:

19 Q And they go over the track?

20 A The conveyer belts go over the track from
21 the coal to the power plant.

22 Q Now, directing your attention to the span

1 regarding the roadway profile. You said your
2 existing span will be 12 foot, 9?

3 A Yes.

4 Q Your existing span would be 12 foot, 9?

5 A Yes.

6 Q And if you went up to 13, 6, you'd really
7 only have to go up less than a foot, wouldn't you?
8 Would you need some type of sacrificial element if it
9 was at the minimum height required by the highway
10 code?

11 A If the span was raised 9 inches to 13 foot,
12 6 inches, we would not need a protection beam or a
13 sacrificial beam.

14 Q Okay. And that is because none of the
15 trucks could possibly strike it at any time, is that
16 correct, because they'd all be under that height?

17 A I would not say that. I would say that we
18 would not need a protection beam because it's not
19 warranted based on current codes and ordinances.

20 Q And you talked about the fact that you
21 believe that at the 12 foot, 9 with the protection
22 beam and 12 foot, 6 by having that projection beam at

1 12 foot, 6, it would reduce damage to the tracks
2 located south of that for northbound traffic; is that
3 correct?

4 A The reciprocal damage.

5 Q Now, couldn't that same reciprocal damage
6 to protect the other tracks still be there if the
7 span was at 13, 6 but you still had a protection beam
8 at 12, 6? You could still design it to protect those
9 other tracks if you chose to even if this was at the
10 minimum height, could you not?

11 A Yes. We could put a protection beam there
12 without a span.

13 Q Now, you testified or you heard -- strike
14 that.

15 From an engineering standpoint, not
16 from a financial standpoint, is it possible to design
17 a span over Brandon Ridge (sic) for this new proposed
18 line that would allow a 13, 6 clearance?

19 A Yes.

20 Q So we're not dealing with a situation where
21 it is physically impossible to design, it's just not
22 the most desirable for the railroad to design?

1 A That's correct.

2 Q Now, when you talked about the benefits of
3 the bridge being 3 inches higher than the other
4 bridges, that doesn't really -- it might be
5 beneficial to the railroad protection, but is it any
6 beneficial to the safety of the motoring public,
7 especially any trucks that could go through there and
8 potentially hit these lower than standardized
9 bridges?

10 A I mean, the posting is 12 feet, 1 inches.
11 I mean, I don't know what else we could do.

12 Q But your design criteria was really to
13 protect the railroad overpass, not make sure that the
14 vehicular traffic was any more protected; was it?

15 A That's correct. We were to design a
16 railroad bridge for a railroad project.

17 Q And, again, you didn't take into your
18 proposed design the safety of the motoring public
19 underneath?

20 A We did. We started with a 30 percent
21 design. We started with Illinois Vehicle Code and an
22 additional 3 inches of ballast, 13 feet, 9 inches.

1 It just wasn't the most optimal profile to use for
2 the railroad.

3 Q And by using the term "optimal profile for
4 the railroad," the most cost beneficial profile is
5 what you're referring to?

6 A No. Based on both -- it was no difference
7 with the plan. With the plan, it's the 18-foot
8 offset, the 21-foot offset, 25. You are looking at
9 both on the profile and with the cross section. It
10 was undesirable for the railroad to use that
11 elevation.

12 Q Did you not just testify when I asked you a
13 few moments ago that you could, in fact, design it
14 sufficiently to have the 13, 6 clearance? It's
15 possible to design it?

16 A It's possible to design it. We did design
17 it. I mean, we provided a 30 percent design to the
18 railroad. So it's feasible, it's just not desirable.

19 Q And what makes it, again, not desirable?
20 What is the actual factors that you're aware of that
21 says it's not desirable?

22 A For the profile, having that 9 inch

1 difference, the train actually has to change
2 elevations from off of the switch upward towards
3 Brandon Road before going back down to grade and then
4 going up at a 1 percent and a 1.35 percent slope into
5 the new bulk facility. With the additional 1 foot
6 drop in elevation from our 30 percent to our next
7 design adjustment and what you see in the 60 percent
8 plans. There's a more fluid profile from off of the
9 turn on the UP main line towards Brandon Road before
10 it goes to the 1 percent and the 1.35. So
11 economically, it's better for the fuel and fuel
12 economy for the trains because there is less profile
13 adjustments for the train to operate on.

14 In the cross section as mentioned
15 before, because of the proximity of the new track to
16 the existing track, there's just less room for the
17 ballast to go. So you have to add extra ballast
18 retainers or you just have to have a very sharp slope
19 for the ballast to runoff from the ties from one
20 track to another. So it's just better for -- a
21 betterment for the railroad to have the profile much
22 closer to the existing main line condition.

1 MR. MOCK: Nothing further.

2 JUDGE KIRKLAND-MONTAQUE: Mr. Powers?

3 MR. POWERS: Just one quick question.

4 CROSS-EXAMINATION

5 BY

6 MR. POWERS:

7 Q When -- as part of your initial contract
8 with the railroad, was there any analysis of either
9 lowering the road or raising the existing structure
10 or was that not even part of your contract to look
11 at?

12 A That was not part of our contract, but
13 definitely it was cuss discussed. In fact, I did do
14 an exercise on my own in both regards and it's just
15 something that would be very difficult to do and it
16 would take a lot of exhaustive design to do either.

17 MR. POWERS: No further questions.

18 JUDGE KIRKLAND-MONTAQUE: Mr. Barron?

19 MR. BARRON: I do have some redirect.

20

21

22

1 REDIRECT EXAMINATION

2 BY

3 MR. BARRON:

4 Q Mr. Bullerman, if CenterPoint could not
5 accept a train, where would the train be staged?

6 A If they could not accept a train?

7 Q At the bulk terminal, where would the train
8 be staged?

9 A If they could not accept a train here?

10 Q At the terminal, right.

11 A And how long are the trains?

12 Q Well, let's say a 7,000-foot train.

13 A If the train can't be in the facility
14 because of the 1.35 percent grade down, it's going to
15 be standing on the siding itself.

16 Q Okay. So can you imagine a situation where
17 you've got a train for this new facility, the train
18 for the power plant both standing on those tracks at
19 the same time?

20 A Yes.

21 Q So would an inspector be walking between
22 two parked trains in that situation?

1 A Potentially.

2 Q And if the railroad were to do nothing
3 here, would there be any change in the current
4 clearance situation of Brandon Road?

5 A There would be no change in the clearance
6 situation.

7 Q Would not -- if you were to hit a bridge
8 with a truck, would there not be some risk to the
9 traveling public on Brandon Road?

10 A Yes.

11 Q If a track were to washout in the vicinity
12 of Brandon Road, would there be some risk to the
13 traveling public on Brandon Road?

14 A Yes.

15 Q Mr. Bullerman, have you ever had any --
16 have you ever had the opportunity to do any study in
17 terms of train dynamics or train handling?

18 A No.

19 Q All right. Let me just turn to your basic
20 engineering knowledge. If -- does it take more force
21 to start a train on an uneven grade versus a flat
22 grade?

1 A Yes.

2 Q What -- do you know what forces are
3 involved in starting and pulling a train?

4 A Yes. The track efforts involved. You
5 definitely want to have -- for freight railroads,
6 much slighter slope.

7 Q And why is that?

8 A Because of the weights of the locomotives
9 and the weights of the bulk that they haul.

10 Q And when you're using greater tracks of
11 power, does not increase the risk that the train
12 might pull apart?

13 A Yes.

14 Q And if a train pulled apart when it was
15 operating, would that be a good thing or a bad thing?

16 A A bad thing.

17 Q If this project went forward, is there any
18 reason in the future that the road could not be
19 lowered?

20 A No.

21 Q So that this project going forward would
22 not take away the ability at some point in the future

1 to lower the road?

2 A Correct.

3 MR. BARRON: I have no further questions of
4 Mr. Bullerman at this time.

5 JUDGE KIRKLAND-MONTAQUE: Okay. Did you have
6 any?

7 MR. MOCK: I have some follow up just based on
8 just those questions.

9 RE-CROSS-EXAMINATION

10 BY

11 MR. MOCK:

12 Q You wouldn't design the existing line to
13 allow either that to washout or -- excuse me.

14 You wouldn't design the new line to
15 either allow that to washout or the two existing
16 lines to washout in that location, would you?

17 A No.

18 Q So the odds of that are probably not going
19 to occur?

20 A Correct.

21 Q Now, this spur is being proposed for
22 CenterPoint by CenterPoint; is that correct?

1 A I believe the history is that CenterPoint
2 approached the CN about the project. The railroad
3 put out the project to bid and that's how we became
4 involved.

5 Q But centerPoint was the driving force that
6 said, Boy, we would really like to have this line
7 coming into our yard?

8 A Yes.

9 Q And based on that and based on their
10 estimate of one train a day going in and one train a
11 day going out, what are the odds, do you think, that
12 CenterPoint wouldn't have room to unload or take that
13 train into their yard after they're the ones that
14 asked it and it would need to stage in that location?
15 Do you have any idea?

16 A No, I have no idea.

17 Q Does it sound logical to you that if they
18 needed this spur to be brought into their yard, they
19 wouldn't be able to handle the freight that it's
20 bringing in?

21 A I believe there has been plenty of studies
22 to make sure that they have capacity within the

1 loading and unloading facility.

2 Q So, I mean, they have multiple tracks in
3 there to drive these trains to load and unload them,
4 that's what they do as an intermodal, do they not?

5 A Yes, correct.

6 Q So the odds that somehow the train is going
7 to have to be parked in the location that you
8 designed is very small?

9 A You have to provide for every situation
10 sometimes --

11 Q Well --

12 A -- and with operations, we found out
13 yesterday, for example, that Midwest Gen -- we were
14 planning on -- for them to have one coal train a day.
15 It just so happens that in the winter they have a
16 plan for 1.6 coal trains a day to make up for the
17 additional energy consumption that they have in
18 December.

19 So, I mean, there's various traffic
20 based on the time of the year or what have you. So
21 to say specifically one train a day in or out, I
22 can't verify that information --

1 Q Well, is there anything --

2 A -- it could fluctuate.

3 Q I'm sorry, did you finish? I'm sorry.

4 A Yes. Yeah, it could fluctuate.

5 Q Now, again, you said you can -- you would
6 design into the design to prevent any of these
7 problems. You wouldn't design a -- strike that. Let
8 me rephrase.

9 If you were concerned about the grade
10 that was required to have the 13 foot, 6 overpass at
11 Brandon Road and you were worried about trains
12 stacking up having to stop there and not go forward,
13 couldn't a design be made that would have the switch
14 coming off the main line farther back so it would be
15 a longer travel distance for that grade to change so
16 it wasn't as severe of a grade? It could be designed
17 away if that was the concern?

18 A It could based on agreements with the UP.
19 To get it to work operationally, the switch had to be
20 put at this control point for all parties and for
21 this to work correctly.

22 Q And isn't it true that as an engineer --

1 and maybe I'm wrong with this -- but I had an
2 engineer once tell me that he could design a 1-foot
3 container that would hold a thousand gallons of
4 water, it would just go up higher in the air. You
5 can design for anything if that's what you're
6 attempting to do in engineering, within reason, can
7 you not?

8 A Yes.

9 Q So there is no way from an engineering
10 perspective alone -- strictly an engineering
11 perspective, not an acquisition, not a cost, not
12 anything else -- it could be designed to have a 13.6
13 standard overpass over Brandon Road, it's physically
14 possible to design that?

15 A It is physically possible to have a bridge
16 at 13 feet, 6 inches.

17 MR. MOCK: Nothing further.

18 JUDGE KIRKLAND-MONTAQUE: Mr. Bullerman, can
19 you please -- and I know you testified to this
20 earlier, but just for clarification -- can you go
21 over some of the safety concerns that are present
22 when you have a higher elevation -- or the

1 differences in the elevations, the possible
2 elevations for the proposed spur? Can you just go
3 over those again for me?

4 THE WITNESS: Yeah, sure. Both on the track
5 side, you have your daily car inspectors that walk
6 alongside the track and then for the at-grade with
7 your northbound traffic with Brandon Road, we set the
8 protection beam, so -- well, it's still set at
9 12 feet, 6, which is the existing clearance. We are
10 considering any reciprocal damage so that would be
11 easier to reset the beam and put that back up then
12 any chance that both the beam and the bridge itself
13 would have to be reset, which would take more time
14 which is the current existing condition.

15 JUDGE KIRKLAND-MONTAQUE: Okay. Anything
16 further, Mr. Barron?

17 MR. BARRON: I have no further questions, your
18 Honor.

19 MR. POWERS: No further questions.

20 MR. MOCK: No further questions.

21 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Bullerman,
22 you may be excused.

1 Okay. Mr. Barron, is that all that
2 you wish to present today?

3 MR. BARRON: That is all the evidence to be put
4 on. At the end of the hearing prior to closing the
5 record, I'd like to make some statements but would
6 not involved testimony.

7 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Mock, do
8 you have your witness?

9 MR. MOCK: Yes. We would like to call Bruce
10 Gould.

11 BRUCE GOULD,
12 called as a witness herein, having been previously
13 duly sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY

16 MR. MOCK:

17 Q Remember, you are under oath. Please state
18 your name and spell it for the court reporter.

19 A Bruce, B-r-u-c-e, Gould, G-o-u-l-d.

20 Q And where are you employed?

21 A I'm employed for the Will County, Division
22 of Transportation.

1 Q And what is your job title?

2 A I'm the director of transportation and the
3 county engineer.

4 Q And in those positions, particularly the
5 county engineer, what education and background do you
6 have to qualify you for that position?

7 A I'm a licensed professional engineer in the
8 state of Illinois and I'm also a graduate -- civil
9 engineer from University of Illinois.

10 Q And are you familiar with the location of
11 the proposed railroad bridge at Brandon Road?

12 A Yes, sir, I am.

13 Q And are you familiar with the existing
14 railroad overpasses at that location?

15 A Yes, I am.

16 Q Have you conducted a study of the existing
17 overpasses at their existing grade height and
18 determined the frequency of impacts or injuries in
19 those locations from vehicular traffic?

20 A Yes, I have. I reviewed crash data that
21 was supplied by the Will County Sheriff's Department
22 from January of 2011 until September -- beginning of

1 September of this year. And in that time, there was
2 33 crashes at that location, trucks hitting the
3 structures.

4 Q And directing your attention to trucks
5 hitting the structures, do those oftentimes cause a
6 closure of the roadway?

7 A Yes. There were various times that the
8 road was closed. I would receive calls at various
9 times of day and night, on the weekends when trucks
10 had hit the structures and they had to close the road
11 down for reasons being either damage to the structure
12 itself or vehicles being wedged underneath the
13 structure and closure. At these various times, we'd
14 have to have the railroad come out, inspect it and
15 make sure that it was safe for vehicular travel prior
16 to opening it up.

17 Q And are you knowledgeable of what the
18 existing overpass -- if the railroad overpasses, what
19 their function and purpose is in that location?

20 A Well, the one line -- there's two lines
21 existing. One of the line services the power plant
22 for coal. And to my knowledge, the second line is a

1 backup line for -- for that same coal line.

2 Q So both of them, basically, provide coal to
3 the power plant?

4 A That is correct.

5 Q Do they go anywhere else to the best of
6 your knowledge?

7 A No.

8 Q And are you familiar with other power --
9 coal-fired plants within Will County?

10 A Yes.

11 Q Are you familiar with the Will station
12 which is located in Romeoville?

13 A Yes, I am.

14 Q Are you familiar with the fact that one of
15 the two units there is being converted over to
16 natural gas?

17 A Yes. That's what I've been told and it
18 will take that coal off line.

19 Q And is it -- and are the -- is the Joliet
20 coal plant that is served by these two a new plant?

21 A No. No. I don't know the age, but it's --
22 it's a pretty old plant.

1 Q And what are some of the reasons as a
2 highway engineer that you are adverse to having the
3 new highway bridge being merely 3 inches higher than
4 these existing under height railroad structures there
5 in that location?

6 A Well, with the new structure being built at
7 substandard statutory heights -- statutory height,
8 according to the Illinois Vehicle Code, is 13 feet, 6
9 inches. And what I mean by that is there does not
10 have to be an over height permit required in the
11 State of Illinois for any vehicle at 13 foot, 6
12 inches or less. So any vehicle of statutory height
13 13, 6 or less that was above the minimum height of
14 the structure would basically be hitting that
15 structure if, in fact, he was to try to traverse that
16 bridge.

17 Q And if the coal fire Midwest Gen plant in
18 Joliet was converted to natural gas, would they still
19 need coal to be delivered to them?

20 A Not to my knowledge.

21 Q If they were taken out of service like the
22 Fisk Plant in Chicago was, would they still need coal

1 delivered to them?

2 A I would not see any reason they would.

3 Q Are you familiar with the Will County area
4 and the number of highway -- non-highway railroad
5 spurs and lines that have been abandoned over the
6 years?

7 A Yes, I am.

8 Q And if coal was no longer needed in the
9 future to go to the Midwest Gen plant, is it your
10 belief and -- based on your experience, that those
11 lines would be abandoned?

12 A Yes.

13 Q Could they then be taken down and no longer
14 a problem at Brandon Road?

15 A Yes.

16 Q And if this new structure was built in that
17 location at a substandard height, we'd still have a
18 problem with Brandon Road, would you not?

19 A Yes.

20 Q Are you asking the hearing over to officer
21 to require the -- not the hearing officer, are you
22 asking the ICC, based on the recommendation of the

1 hearing officer, to require the new structure to be
2 at the minimum statutory heights looking towards the
3 future safety and the current safety of the citizens
4 of the motoring public of Will County?

5 A Yes, I am.

6 MR. MOCK: I have no further questions of this
7 witness.

8 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Barron?

9 MR. BARRON: Yes.

10 CROSS-EXAMINATION

11 BY

12 MR. BARRON:

13 Q Mr. Gould, if the IC were to do nothing at
14 this location, would anything change with regard to
15 the current situation at this location?

16 A No, sir.

17 Q Would you anticipate that you'd still have
18 crashes at this location?

19 A Yes.

20 Q You heard Mr. Bullerman's testimony. Does
21 what IC is doing change anything to the clearance
22 profile at this location if it goes as proposed?

1 A No.

2 Q Have you ever had any experience or
3 involvement in any railway engineering?

4 A No, I have not.

5 Q Do you have any experience or knowledge of
6 how coal-fired power plants work?

7 A No, sir.

8 Q Do you have any experience or knowledge of
9 how natural gas fired power plants work?

10 A No, sir.

11 Q So safe to say, you do not know how easy it
12 would be to switch between natura; and coal and
13 vice-versa?

14 A That is correct.

15 Q And have you spoken with anyone at UP or at
16 IC with regard to any future plans for those tracks
17 other than us gentlemen here today?

18 A No, sir.

19 Q And you referred to statutory height. Are
20 you referring to the height of vehicles or the height
21 of bridges over roads?

22 A The height of vehicles.

1 Q And do you know if those references were
2 contained in the pleading that Will County filed in
3 this matter?

4 A Could you rephrase that?

5 Q I'm sorry. You made -- do you know -- you
6 referred to statutory authority and I'm wondering if
7 you know if that statutory authority was contained in
8 the pleadings that Will County filed in this matter?

9 A I think in the affidavit it was, yes, sir.

10 Q Do you study the rail business at all?

11 A No, sir.

12 Q So you don't know what the current
13 financial condition is of the rail business is?

14 A I do not.

15 Q But you are aware of this new bulk terminal
16 being proposed in Will County?

17 A Yes, sir.

18 Q Are you aware -- but you're the county
19 highway engineer?

20 A Yes, sir.

21 Q You've been involved in other rail projects
22 in and around Will County?

1 A Yes, I have.

2 Q And what are some of the projects you've
3 been involved in in and around Will County?

4 A The two major ones that come to mind are
5 the internodals in Elwood and in Joliet.

6 Q What are those rail -- what are those
7 projects for?

8 A They're for piggybacking truck rail system,
9 I guess, is the easiest way to put it.

10 Q Why would railroads locate there?

11 A Well, there's a couple of -- there's
12 various reasons why they were located at the
13 vicinity -- the facility that they are today. One of
14 which is the arsenal property was turned over to
15 CenterPoint for the acquisition -- or for the
16 building of these internodals, so there was a lot of
17 acreage there to be used.

18 The other reason, obviously, is
19 because of the proximity of the Chicagoland area and
20 this is the hub of the nation for intermodal.

21 Q And you don't see that change any time
22 soon, do you?

1 A No, I do not.

2 Q And so it's pretty clear from your
3 testimony that rail activity in and around Joliet and
4 Will County has been expanding recently; is that
5 correct?

6 A Yes, sir.

7 Q And do you know if it's possible for the
8 railroads -- you haven't spoken to them, I know, but
9 would it be possible to locate customers in the
10 vicinity of the Midwest Generation plant in addition
11 to what CenterPoint is doing today given the current
12 existence of the rail infrastructure?

13 A It's a possibility.

14 MR. BARRON: Those are all the questions I have
15 for Mr. Gould. I'd like to go ahead and recall
16 Mr. LaDue as a -- to provide some rebuttal, if that's
17 okay.

18 JUDGE KIRKLAND-MONTAQUE: Wait. Mr. Powers --

19 MR. BARRON: Oh, I'm sorry.

20 JUDGE KIRKLAND-MONTAQUE: -- do you have
21 questions for the witness?

22 MR. POWERS: No questions.

1 MR. MOCK: No follow up.

2 JUDGE KIRKLAND-MONTAQUE: Okay. Well then you
3 may be excused.

4 THE WITNESS: Thank you, your Honor.

5 JUDGE KIRKLAND-MONTAQUE: And you may have the
6 witness come back.

7 PAUL LADUE,
8 called as a witness herein, having been previously
9 duly sworn, was examined and testified as follows:

10 REBUTTAL DIRECT EXAMINATION

11 BY

12 MR. BARRON:

13 Q Mr. LaDue, just reminding you, you are
14 under oath. You heard Mr. Gould's testimony with
15 regard to Midwest Generation; is that correct?

16 A Yes.

17 Q Are you, yourself, aware of any situation
18 in which Midwest Generation may stop receiving coal
19 traffic at this time?

20 A I am not.

21 Q If Midwest Generation were to stop
22 receiving coal traffic, what might happen, at least

1 with regard to the IC line -- the main line currently
2 ebbs issuing over Brandon road?

3 A Well, there's two possibilities. One is,
4 you know, we continue to look for developmental
5 property or opportunities down in that area. And
6 secondly, that line also serves as a secondary line
7 for the Illinois Central to connect to the BNSF. We
8 do have trackage rights over the BNSF to operate down
9 their line to serve customers and when there is an
10 issue on the BNSF main line, we can use that as an
11 alternative. In fact, the Illinois Central used that
12 for years before we leased the line over to the UP.

13 Q And so that situation can manifest itself
14 even in the absence of Midwest Generation; is that
15 correct?

16 A Sure.

17 Q Mr. LaDue, you've been involved in the rail
18 business for a long time; is that correct?

19 A Yes.

20 Q And how would you describe its current
21 health?

22 A Excellent.

1 Q Is the railroad at this point developing
2 infrastructure or removing infrastructure on a
3 general basis?

4 A For the CN, we're developing. I mean,
5 we've taken a number of locations recently with the
6 expansion of crew, the expansion of sand, intermodal
7 facilities, we did recently add two tracks in our
8 Joliet yard to handle intermodal and we're always
9 looking for opportunities for developmental purposes
10 for new customers.

11 MR. BARRON: Those are all the questions I
12 have.

13 JUDGE KIRKLAND-MONTAQUE: You --

14 MR. MOCK: No questions.

15 JUDGE KIRKLAND-MONTAQUE: Mr. Powers?

16 MR. POWERS: No questions.

17 JUDGE KIRKLAND-MONTAQUE: Okay. You may be
18 excused.

19 I have a question for you -- well,
20 it's regarding the petition mainly. And I don't have
21 my Commission -- the rules and statutes with me right
22 now, but this -- in your petition, you are not

1 requesting a waiver of the vertical --

2 MR. BARRON: As I understand, the waiver
3 situation is triggered when you've got highway over
4 rail. So --

5 JUDGE KIRKLAND-MONTAQUE: Okay.

6 MR. BARRON: -- a so 7401 statute is highway
7 over rail, this is rail over highway.

8 JUDGE KIRKLAND-MONTAQUE: I knew that there was
9 something there, just to be clear about that.

10 Mr. Powers, did you -- okay. No,
11 Mr. Barron, I'll allow you to make your statement.

12 MR. BARRON: Thank you, your Honor.

13 CLOSING STATEMENT

14 BY

15 MR. BARRON:

16 Railroads do not operate in a vacuum.
17 The design we presented today had to consider a lot
18 of factors: Wetlands, crew safety, operational
19 safety, track integrity, roadway safety, bridge
20 safety. And the design that we proposed addresses
21 all those issues to the best extent possible and
22 allows the railroad to continue to pull it's mandate

1 to provide common carrier service pursuant to federal
2 law. If we raise the proposed span to a height
3 requested by the County, it would result in a zero
4 increase in safety because the existing spans --
5 including one that is controlled by UP will remain as
6 they are, especially for traffic coming from the
7 river side -- the north side.

8 There was some testimony that
9 Mr. Gould had about the future of Midwest Generation.
10 There is also testimony in the record that says their
11 coal traffic is going to increase. The demand for
12 traffic nationwide and the need for increased rail
13 facilities is there now. We have to operate on the
14 facts that we know, not in a speculative possibility
15 that a particular piece of traffic may go away.

16 The proposed design we believe
17 actually enhances the current situation due to the
18 placement of the sacrificial beam. The risk to the
19 rail lines is reduced because the risk to the bridges
20 is reduced and we believe the recovery time to get
21 the roadway back in service is going to be quicker.

22 We also again addressed the fact that

1 the proposed span could address -- could increase
2 operational and safety concerns due to drainage and
3 ballast runoff.

4 The fact is, there is benefit to the
5 traveling public here given this design because the
6 current situation, as Mr. Gould describes, is not
7 going to be any different if we were to do nothing.
8 We believe that we are making the situation better
9 here at the roadway for the traveling public, at
10 least with regard to vehicles traveling towards the
11 river and also using existing in -- using existing
12 right-of-way and ideal land to go ahead and develop
13 our rail services.

14 Again, he have a common carrier
15 obligation to serve this traffic. We've addressed
16 operational and safety concerns and believe this is a
17 good solution and the best solution.

18 You've just brought up the clearance
19 issue, Judge, with regard to 7401 which allows
20 waivers. That situation is not applicable here
21 because this is a rail over highway, but the idea of
22 the waiver clearance is based on engineering,

1 operational and economic conditions and we believe
2 that those same conditions apply here and why we
3 believe the current design should go forward.

4 There was a great deal of discussion
5 on walkways. There are walkway rules that have to be
6 followed that the Commerce Commission just passed, so
7 it is -- it is a very significant issue that we had
8 to take into account when designing this proposed
9 span and the proposed project overall.

10 And those are all the remarks I have
11 today. Thank you for the opportunity.

12 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Mock, did
13 you want to make a statement?

14 MR. MOCK: Yes.

15 CLOSING STATEMENT

16 BY

17 MR. MOCK:

18 I would like to point out that in the
19 defenses filed by the County, we did cite both the
20 Vehicle Code and the Illinois Bridge Manual that
21 stated that the minimum design standards for
22 clearance is in excess of 13 feet, 6 inches and that

1 in the Vehicle Code, it says, Each rail carrier
2 shall, consistent with the rules, orders and
3 regulations of the Federal Railroad Administration,
4 construct, maintain and operate all of its equipment,
5 track and other property in this state in such manner
6 as to pose no undue risk to its employees or persons,
7 of the property and members of the general public and
8 we believe the motoring public falls under the
9 general public.

10 Two wrongs don't make a right. There
11 is an under pipe bridge from the current standards at
12 that location, which is a rather old -- old structure
13 or older structure. These structures aren't made for
14 short periods of time, but they do have life
15 expectancy. A brand new bridge over Brandon Road for
16 a railroad line is going to last maybe 100 years.
17 The existing ones, maybe not. What our belief is and
18 what our argument to the Commission is, you are going
19 to ensure this problem continue in the future for the
20 life of this new bridge if you allow it to be built
21 at a contemporaneous height with the existing ones.
22 The odds are that the existing ones will exceed their

1 lifespan somewhat and need to be reconstructed or
2 rebuilt and maybe at that time, it could be
3 reconfigured to match standards, maybe not; but what
4 we do know is if you allow a new existing -- if you
5 allow the new structure and the new bridge to be
6 under what the required heights are set by statutes,
7 we might as well not even have these proposed heights
8 because if they're not going to be followed for new
9 construction, why even have the standards?

10 We're asking the ICC to require the
11 applicant to protect the motoring public and have
12 their overpass built at a sufficient standard to do
13 so. Thank you.

14 MR. BARRON: Your Honor, if I may, just in case
15 this question comes up, the Illinois compiled statute
16 referenced in the pleading is referring to vehicles.
17 That's -- they were 6725 ILCS 5/15-103 limiting the
18 height of vehicles to 13,6. So it's not actually
19 addressing the vertical clearance issue. So we --
20 the proposal we have does not violate any statutory
21 authority in Illinois.

22 The Illinois Bridge Manual and, of

1 course, it stands on its own -- but I believe it's
2 only talking about -- in great part, references to
3 state highways. This, of course, is not a state
4 highway, this is a county road in unincorporated Will
5 County. And so we don't think there's an actual
6 applicable standard that the Bridge Manual would
7 govern, at least with regard to a statutory standard.
8 So -- but, again, the Bridge Manual stands on its
9 own.

10 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Powers,
11 can I please get you to make, on the record, the
12 position of Staff.

13 MR. POWERS: As has been stated before, since
14 our Administrative Code does not cover rail over
15 highway vertical clearances, Staff cannot object
16 to the proposal. That's all Staff has to say.

17 JUDGE KIRKLAND-MONTAQUE: Okay. Is that it?

18 MR. BARRON: That's all I have today, your
19 Honor.

20 MR. MOCK: Fully heard.

21 JUDGE KIRKLAND-MONTAQUE: Okay. We're going to
22 mark the record heard and taken and -- this is a

1 common request that I make in all of the hearings and
2 that is for the petitioner to provide me with a draft
3 order to work with. That does not mean that I'm
4 going to go with it. I'm going to -- you know, may
5 use it. I will -- because of the differing opinions,
6 I will have to issue a proposed order which gives you
7 the opportunity, you know, based on my decision or my
8 recommendation, to respond and then we'll be able to
9 get an order to the Commission after that process is
10 completed.

11 MR. BARRON: And so with regard to the draft
12 order, I will file that as a draft order on the
13 Commission Web site which services the parties; is
14 that how that's to be handled?

15 JUDGE KIRKLAND-MONTAQUE: Yes. Please. Also,
16 a Word version. You can forward that to either
17 Mr. Powers or myself and he'll get it to me.

18 MR. BARRON: And, Judge, given the timing of
19 the project, as soon as I get a draft you order up to
20 you, I will. Do you have a sense of when a proposed
21 order might issue?

22 JUDGE KIRKLAND-MONTAQUE: It should be shortly

1 after I receive it. I mean, we are headed toward the
2 end of the year. Things are not that -- you know, I
3 should be able to get it out within the next week or
4 two after I get it.

5 MR. BARRON: Thank you.

6 JUDGE KIRKLAND-MONTAQUE: So just make sure I
7 get a Word version.

8 MR. BARRON: Yes.

9 JUDGE KIRKLAND-MONTAQUE: So I believe that's
10 it for today. We're marked heard and taken and
11 that's it. We are adjourned. Thank you.

12 (Heard and taken.)

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