

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 cc'd)

August 11, 2015

Latrice Kirkland-Montaque  
Chief Administrative Law Judge  
Review and Examination  
Illinois Commerce Commission  
160 N. LaSalle Street  
Chicago, IL 60601

RE: T15-0040

Dear Judge Kirkland-Montaque:

The attached Agreed Order was reviewed and agreed to by the parties, and was filed on e-Docket today.

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

cc: Larry Parrish - IDOT  
Tom Healey - CN

BV

**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, :  
Petitioner, :  
 :  
v. : T15-0040  
 :  
Illinois Central Railroad Company, :  
Respondent. :  
 :  
Petition for an Order authorizing removal and replacement of :  
existing overpass structure (SN: 016 1075) carrying FAI Route :  
55 northbound lanes over existing Illinois Central Railroad :  
Company tracks and Metra tracks from FAI Route 94 (Dan Ryan :  
Expressway) to U.S. Route 41 (Lake Shore Drive) in the City of :  
Chicago, Cook County, Illinois.

**AGREED ORDER**

By the Commission:

On April 6, 2015, the Illinois Department of Transportation (hereinafter referred to as "Department") filed the above-captioned verified petition with the Illinois Commerce Commission (hereinafter referred to as "Commission"), naming Illinois Central Railroad Company as Respondent, seeking an order authorizing removal of existing overpass structure (designated SN: 016-1075) carrying FAI Route 55 northbound lanes over existing Illinois Central Railroad Company tracks and METRA tracks from FAI Route 94 (Dan Ryan Expressway) to U.S. Route 41 (Lake Shore Drive) and replace said overpass with a new and wider structure (proposed SN: 016-1075) in the City of Chicago, Cook County, Illinois.

On May 19, 2015 a Hearing was held before a duly appointed Administrative Law Judge (ALJ) in the Commission's Chicago office. Petitioner and Respondents were represented by counsel. Brian Vercruysse of the Commission's Rail Safety Section appeared on behalf of Commission Staff (Staff). On August 11, 2015, an Agreed Order prepared by the parties and Staff was filed, and the record was marked "Heard and Taken".

**PETITIONER'S EVIDENCE**

Petitioner proposes removal and replacement of existing overpass structure (SN: 016-1075) carrying FAI Route 55 northbound lanes over existing Illinois Central Railroad Company tracks and METRA tracks from FAI Route 94 (Dan Ryan

Expressway) to U.S. Route 41 (Lake Shore Drive) in the City of Chicago, Cook County, Illinois.

This project includes:

- The complete removal and replacement of the existing superstructure (SN: 016-1075), to provide for a proposed superstructure that accommodates four (4), twelve (12) foot traffic lanes, ten (10) foot right shoulder, and ten (10) foot left shoulder.
- The complete removal and replacement of the existing substructure.
- Construction of the proposed overpass structure (SN: 016-1503) to provide for an increase in the vertical profile alignment to meet a minimum twenty nine (29) foot vertical clearance measured from the top of the rail to the bottom of the proposed steel girder flange.
- Removal and replacement of the existing roadway lighting.
- The complete replacement of a highway drainage system.
- The installation of a new Intelligent Transportation System (ITS), which include new detector loops, new Dynamic Message Signs (DMS), and new pole-mounted Closed Circuit Television (CCTV) cameras.

A Construction and Maintenance Agreement has been executed by the parties which state the work responsibilities and costs to be paid by each party. The Department let the project in July 2015, with a project completion date of December 31, 2017.

During the Hearing on May 19, 2015, Mr. Andy Rabadi, IDOT Engineer, provided testimony confirming the purpose and need for the project and information continued within the Petition.

## **RESPONDENT ILLINOIS CENTRAL RAILROAD'S PETITION**

Illinois Central Railroad supports the Petition and project and agrees that the relief sought in the Petition should be approved.

## **STAFF'S POSITION**

Staff supports the Project.

**FINDINGS AND ORDERING PARAGRAPHS**

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 Illinois Department of Transportation is a Department of the State of Illinois which exists by virtue of the laws of the State of Illinois;
- (3) The Illinois Central Railroad is a rail carrier engaged in the transportation of either or both property and passengers for hire in the State of Illinois, as defined by the Illinois Commercial Transportation Law, 625 ILCS 5/18c-1104(3);
- (4) 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;
- (5) It is in the interest of public safety and convenience that the Illinois Department of Transportation should remove and replace the existing overpass structure (SN: 016-1075) carrying FAI Route 55 northbound lanes over existing Illinois Central Railroad Company tracks and METRA tracks from FAI Route 94 (Dan Ryan Expressway) to U.S. Route 41 (Lake Shore Drive) in the City of Chicago, Cook County, Illinois.
- (6) All costs for the project shall be paid by the Department as set forth in the Construction and Maintenance Agreement executed by the parties.
- (7) The project should be completed by December 31, 2017.
- (8) 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;
- (9) Any person making a Request for 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;

- (10) Any person making a Request for 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;
- (11) Requests for Extensions 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 with the ordered timeframe;
- (12) 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 Illinois Department of Transportation in accordance with the plans entered into evidence as Group Exhibit 1 at the Hearing held on May 19, 2015 is authorized to remove and replace the existing overpass structure (designated SN: 016-1075) carrying FAI Route 55 northbound lanes over existing Illinois Central Railroad Company tracks and METRA tracks from FAI Route 94 (Dan Ryan Expressway) to U.S. Route 41 (Lake Shore Drive) in the City of Chicago, Cook County, Illinois.

IT IS FURTHER ORDERED that the Department 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 Department 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 the Department in coordination with the Illinois Central Railway Company, shall file with the Transportation Bureau's Director of

Processing and Information within five (5) days after the completion of the work required under this order, a United States Department of Transportation Inventory Form (#6180.71).

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 that 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 Law review.

By Order of the Commission this \_\_\_\_ day of \_\_\_\_\_ 2015.

BRIEN SHEEHAN  
CHAIRMAN