



ILLINOIS COMMERCE COMMISSION

July 15, 2002

Burlington Northern and Santa Fe Railway Company
Petitioner,

V.

Will County, Illinois, and the State of Illinois, Department of
Transportation
Respondents.

T02-0053

Petition for an order from the Illinois Commerce Commission
establishing an additional at-grade crossing extending the tracks of the
Burlington Northern and Santa Fe Railway Company across Arsenal
Road in Will County, Illinois, Milepost 47.12, DOT Number 004 386N.

TO ALL PARTIES OF RECORD:

ADMINISTRATIVE LAW JUDGE'S PROPOSED ORDER

Attached is a copy of the Administrative Law Judge's Proposed Order in the
above referenced matter.

The Administrative Law Judge's Proposed Order is being sent to you pursuant to
the Commission's Rules of Practice (83 Ill. Adm. Code 200). Your case is a "contested
case" or "licensing case" as defined in Section 200.40 of the Rules and, therefore, the
Hearing examiner is required under Section 200.820 to issue a Proposed Order to all
parties.

Under Section 200.830 of the Rules, exceptions to the Proposed Order and
replies thereto may be filed by the parties within the time periods established by the
rules of such other times as fixed by the hearing examiner. The times for filing
exceptions and replies are fixed at ten days and five days, respectively.

Entered:

June B. Tate
June B. Tate
Administrative Law Judge
Review & Examination Program

JBT:rsc

Railroad Staff: Mr. Humphries

LOCKE

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Burlington Northern and Santa Fe
Railway Company, :

Petitioner :

vs. :

Will County, Illinois and the State of
Illinois, Department of Transportation, :
Respondents :

Petition for an order from the Illinois
Commerce Commission establishing an :
additional at-grade crossing extending :
the tracks of the Burlington Northern and :
Santa Fe Railway Company across :
Arsenal Road in Will County, Illinois, :
Milepost 47.12, DOT Number 004 386N.:

T02-0053

PROPOSED ORDER

By the Commission:

On May 23, 2002, the Burlington Northern and Santa Fe Railway Company ("Petitioner" or "the Railway") filed the above-captioned verified petition with the Illinois Commerce Commission ("Commission") seeking an order authorizing the extension of the tracks of the Railway and establishing an additional at-grade crossing at Arsenal Road, a part of the Will County Highway System. The County of Will ("the County") and the State of Illinois, Department of Transportation ("IDOT") were named as Respondents.

Pursuant to notice as required by law and the rules and regulations of the Commission, the matter came on for hearing before a duly authorized Administrative Law Judge of the Commission on June 25, 2002 at the Commission's offices in Chicago, Illinois. Appearances were entered by counsel for Will County, Mary M. Tatroe, for the Railway, Michael L. Sazdanoff, for IDOT, Jeff Harpring, and Henry Humphries of the Commission's Railroad Section, Transportation Division. At the conclusion of a full and public hearing on the aforementioned date, the record was marked "Heard and Taken."

Testimony was offered by Cheryl Townlian, manager of public projects in Illinois and Wisconsin for the Railway.

The Railway operates a double mainline track in a generally northeast to southwest direction through Will County, Illinois. Arsenal Road is an east-west roadway located within the boundaries of Will County and is under the jurisdiction of Will County. The Railway's trackage traverses Arsenal Road creating at-grade crossings at Milepost 47.12, DOT Number 004 386N. The crossings are equipped with a single set of cantilevered automatic flashing light signals and gate warning devices.

The Railway intends to construct a third track to be located between the existing two mainline tracks. Construction of the third track will create a third crossing surface over and across Arsenal Road. The easternmost track will become a siding to handle intermodal traffic at the Deer Run Intermodal Facility. The new track will become second mainline track.

Railway traffic consists of high speed freight trains traveling at speeds up to seventy mile per hour (70 mph). There is no commuter or Amtrak train traffic. Volume is sixty-five to seventy-five (65-75) trains per day. Average daily traffic that uses Arsenal Road is 2,550 vehicles, 5% being trucks and there has only been one accident occurring in the year 2000. The existing warning devices will serve as sufficient and appropriate warning devices to warn the traveling public of rail traffic over the new track.

Will County has voiced no objection to the crossing and is in support thereof. There will be no use of Grade Crossing Protection Fund monies. The Railway seeks no financial assistance.

The Commission, having given due consideration to the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) the Burlington Northern and Santa Fe Railway Company, a Delaware corporation, is a corporation engaged in the transportation of property and/or passengers for-hire in the State of Illinois and as such, is a "rail carrier" within the meaning of Chapter 625 ILCS 5/18c-1104(30) of the Illinois Commercial Transportation Law ("Law"), as amended;
- (2) the County of Will is a political subdivision of the State of Illinois;
- (3) the State of Illinois, Department of Transportation, is an agency of the State of Illinois;
- (4) the Commission has jurisdiction over the parties and the subject matter of this petition;
- (5) matters contained in the prefatory portion of this order are adopted as findings of fact;

- (6) Petitioner proposes the construction of an extension of its tracks and the addition of an at-grade crossing across Arsenal Road in Will County, Illinois; construction of the new track will be east of the existing double main line tracks; the easternmost track will become a siding to handle traffic into the Deer Run Intermodal Facility and the new track will become a new main line track;
- (7) the existing automatic flashing light signals and gates are adequate warning devices and require no enhancement;
- (8) the County of Will, State of Illinois, is in favor of the construction and has voiced no objection to the project;
- (9) the Burlington Northern and Santa Fe Railway Company seeks no monies from the Grade Crossing Protection Fund of the Motor Fuel Tax Law, nor does it seek funds from any other entity;
- (10) construction is expected to be completed in August 2002;
- (11) the proposed construction is in the interest of public convenience and necessity and should be approved.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that permission be, and it is hereby granted to the Burlington Northern and Santa Fe Railway Company to construct an extension of its tracks and an additional at-grade crossing at Arsenal Road in Will County, Illinois.

IT IS FURTHER ORDERED that the costs of the proposed construction and the future maintenance of the at-grade crossing and the additional track shall be the sole responsibility of the Burlington Northern and Santa Fe Railway Company.

IT IS FURTHER ORDERED that the Burlington Northern and Santa Fe Railway Company is hereby directed and required to proceed with the work required of it and that completion shall be during the month of August 2002.

IT IS FURTHER ORDERED that existing warning devices are adequate and do not require enhancement.

IT IS FURTHER ORDERED that the Burlington Northern and Santa Fe Railway Company shall submit to the Director of Processing and Information, Transportation Division of the Commission, National Inventory Update Report Forms, as notice of said completion, within five days of the completion of the work herein required.

**ADMINISTRATIVE LAW JUDGE'S
PROPOSED ORDER**

IT IS FURTHER ORDERED that the Commission shall retain jurisdiction of this matter for purposes of entering such further order or orders as it may deem necessary.

By Order of the Commission this day of 2002.

Chairman