

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Wisconsin Central LTD., the Village of Mundelein, the County of Lake, and the State of Illinois, Department of Transportation. :
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 :
 Stipulated Agreement regarding the installation of an Automated :
 Horn System (AHS system) at the crossings of the Company's :
 track with public highways known as Butterfield Road, Illinois : T01-0029
 Rte. 60 (IL 60), Allanson Road, Hawley Street, Park Street, :
 Maple Street (IL. Rte. 176), Dunbar Road, Winchester Road, and :
 Peterson Road, located in/near the Village of Mundelein, Lake :
 County, Illinois, designated as crossings AAR/DOT 689 698N, :
 milepost 37.37M; AAR/DOT 689 699V, milepost 37.50M; :
 AAR/DOT 689 701U, milepost 38.65M; AAR/DOT 689 703H, :
 milepost 39.80M; AAR/DOT 689 704P, milepost 39.94M; :
 AAR/DOT 689 705W, milepost 40.10M; AAR/DOT 689 707K, :
 milepost 40.85M; AAR/DOT 689 709Y, milepost 41.78M; and :
 AAR/DOT 689 710G, milepost 42.38M, respectively.

THIRD SUPPLEMENTAL INTERIM ORDER

By the Commission:

On April 25, 2001, the Illinois Commerce Commission ("Commission") entered its Interim Order in this matter that required, among other things, the Wisconsin Central LTD ("WC") to install an Automated Horn System ("AHS") at nine public highway/rail grade crossings in/near the City of Mundelein, Lake County, Illinois. The installations were required to be completed by August 31, 2001. The cost for the automated horn system for the seven crossings on the local road system was ordered paid 100% by the Grade Crossing Protection Fund ("Fund") with the two crossings on the state system being paid 100% by the Illinois Department of Transportation ("IDOT").

On December 5, 2001, a Supplemental Interim Order was entered by the Commission granting to the WC an extension of time to and including December 31, 2001, within which to complete the automated horn system installation at the nine crossing in the Village of Mundelein. The Supplemental Interim Order further revised the estimates of cost for the installation, including the connection to the existing WC warning devices, of the automated horn system. The increase in cost for the installation of the AHS was divided between the Fund and IDOT in the same percentage as contained in the original Interim Order; an increase to the Fund of \$87,061 and to IDOT in the amount of \$29,833.

On March 27, 2002, the Commission entered its Third Interim Order granting an

additional extension of time to and including May 31, 2002, within which to complete the work as required by the original Interim Order and Supplemental Interim Order, dated April 25, 2001 and December 5, 2001, respectively, applying to the initial installation of the AHS. The WC states that it has installed the AHS at the nine crossings and in early January 2002, began testing of the system in coordination with the Commission's Rail Safety Section. At the direction of Commission staff, adjustments were required to the microphone placement in the horns. WC needed additional time within which to finish the microphone adjustments and conduct follow-up testing prior to activation of the AHS.

On September 25, 2002, the City filed its Supplemental Petition with the Commission requesting an additional six (6) month extension of time to and including April 25, 2003, within which to complete the study period as required by the original and Supplemental Interim Orders. Since the installation of the AHS was considered experimental, the Interim Order required a study to be performed, by the Northwestern University Center for Public Safety, on the effectiveness of the system, and whether the AHS can replace the need for train crews to sound train horn warnings when approaching public highway/rail grade crossings. The pilot program was to continue for a minimum of eighteen (18) months from the date of the Commission's Interim Order. A pre-horn study was performed prior to activation of the AHS. Due to changes in the AHS system, as required by the Commission's Rail Safety Section, the study was delayed for several months. The aforementioned study is now in the final stages of preparation, but is not yet complete. The City requests that the study period be extended for an additional six (6) months until April 25, 2003.

Since the delay in the start of the second phase of the study was due to the Rail Safety Section staff mandating changes in the AHS system before approval was granted for the AHS system to be put in service, staff has reviewed the request for an extension of time filed by the City of Mundelein and has no objections to the Commission granting said extension until April 25, 2003.

The Commission, having given due consideration to the Supplemental Petition and to the entire record herein, finds that:

- 1) the Commission has jurisdiction over the parties and the subject matter of this proceeding;
- 2) the prefatory portion of this Third Supplemental Interim Order is true and correct and is hereby adopted as findings of fact;
- 3) an extension of time to and including April 25, 2003, should be granted to the City of Mundelein within which to complete the study being conducted by Northwestern University Center for Public Safety as required by the original Interim Order, Supplemental Interim Order, and Second Interim Order, dated

April 25, 2001, December 5, 2001, and March 27, 2002, respectively;

- 4) all other terms and conditions of the original Interim Order, Supplemental Interim Order, and Second Interim Order, dated April 25, 2001, December 5, 2001, and March 27, 2002, respectively, shall remain in full force and effect except as herein modified.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that an extension of time to and including April 25, 2003, be, and it is granted, to the City of Mundelein, within which to complete the study of the automated horn system at the nine aforementioned crossings in/near the Village of Mundelein, Lake County, Illinois, said study being performed by the Northwestern University Center for Public Safety.

IT IS FURTHER ORDERED that any person or party 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 and Information 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 and Information 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 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 within the ordered timeframe.

IT IS FURTHER ORDERED that the Commission or its Administrative Law Judge reserves the right to deny Petitions For Supplemental Orders and Requests For Extensions of Time, 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 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 FURTHER ORDERED that all other terms and conditions of the original Interim Order, Supplemental Interim Order, and Second Interim Order dated April 25, 2001, December 5, 2001, and March 27, 2002, respectively, are hereby affirmed and shall remain in full force and effect except as herein modified.

IT IS FURTHER ORDERED that, subject to Sections 18c-2201 and 18c-2206 of the Law, this is a final decision of the Commission subject to Administrative Review Law.

By Order of the Commission this 23rd day of October, 2002.

Kevin H. Wright

Chairman

JUDGE
SECTION CHIEF <i>MES</i>
<i>[Signature]</i> ORDERS SUPERVISOR