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STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

THE DEPARTMENT OF TRANSPORTATION)  
OF THE STATE OF ILLINOIS, for and in )  
behalf of the People of the State of Illinois, )

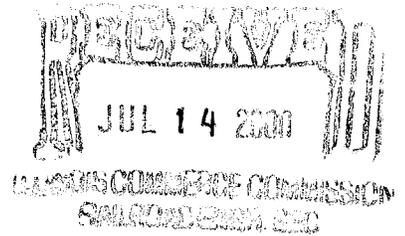
Petitioner, )

vs. )

UNION PACIFIC RAILROAD COMPANY,) )

Respondent. )

No.: 00-T-0028



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**BY THE COMMISSION:**

On April 5, 2000, the Department of Transportation of the State of Illinois for and in behalf of the People of the State of Illinois, filed a verified Petition against Union Pacific Railroad Company, a corporation, with the Illinois Commerce Commission ("Commission") for approval of the taking of certain property in Montgomery County, Illinois, by exercising the right of eminent domain (Parcel Nos. 6208105PE1-13 and 6208105TE).

Pursuant to Notice as required by law and by the rules and regulations of the Commission, this matter was set for hearing May 23, 2000, and on June 15, 2000, before a duly authorized Hearing Examiner at its offices in Springfield, Illinois. Appearances were entered on behalf of Petitioner and Respondent and on behalf of the railroad staff of the Commission. At the conclusion of the hearing on June 15, 2000, the record was marked "Heard and Taken".

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David J. Kastendick, Land Acquisition Engineer employed by Petitioner's District 6, testified that Petitioner seeks permanent easements as to the properties described in Appendices "A" - "M" attached hereto, and as shown also on Petitioner's Exhibits "A" - "M", and a temporary easement as to the property described in Appendix "N" attached hereto and as shown also on Petitioner's Exhibit "N", all of which Exhibits are attached to the Petition for Approval to Take Property. The permanent and temporary easements are needed for an improvement of FAP 325 (IL Route 16) in Montgomery County, Illinois, all of which is under the control and jurisdiction of Petitioner. The easements sought are on properties of the Respondent, which Respondent's railroad tracks run parallel to FAP 325 and the acquisitions which are the subject of this proceeding extend to within 3/10ths of a mile northeast of the Christian County boundary line. Permanent easements are sought by the Petitioner for drainage work on Parcel No. 6208105PE, as shown in attached Appendices "A" - "D", "F" - "G" and "J" - "M" and the permanent easements for Parcel No. 6208105, as shown in attached Appendices "E", "H", and "I", are needed for the purpose of making improvements to intersections in that area. The planned intersectional work is for the purpose of changing, for safety purposes, the angle of the roads closer to 90 degree angles to the tracks. Mr. Kastendick stated the temporary easement sought in Parcel No. 6208105TE and attached hereto as Appendix "N" is needed for the purpose of grading and sloping work. Mr. Kastendick further testified that the project is in the public good and cannot be undertaken if the easements, which are the subject of this proceeding, are not acquired. He further testified that the funds for the acquisition of the property for the project had been allocated and approved and that the project is on a bid letting schedule for

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November, 2000. The witness further testified that the impact, if any, upon the operation of the Respondent's railroad in the area the project is on a very temporary basis. An agreement has not been finalized by Petitioner and Respondent as to compensation for the parcels, nor have the forms of conveyance been agreed to, which necessitates that Petitioner be given approval by the Commission to exercise its power of eminent domain with regard to acquiring a permanent easement in the parcels legally described in Appendices "A" - "M" and a temporary easement in the parcel legally described in Appendix "N", all attached hereto.

The Commission, having considered the entire record and being fully advised in the premises, finds that:

1. Respondent, UNION PACIFIC RAILROAD COMPANY, a corporation, is registered to do business in the State of Illinois and is a rail carrier as defined by Section 18c-1101, et seq. of the Illinois Commercial Transportation Law effective January 1, 1986, as amended, the same being 625 ILCS 5/18c-1101, et seq.;

2. The Commission has jurisdiction over the parties hereto on the subject matter herein:

3. Petitioner seeks to acquire a permanent easement in Parcel 6208105PE 1-13, legally described in Appendices "A" - "M" attached hereto (and also attached to the Petition in this matter as Exhibits "A" - "M") and a temporary easement in Parcel 6208105TE, legally described in Appendix "N" attached hereto (and also attached to the Petition in this matter as Exhibit "N"), presently owned by Respondent for an improvement of FAP Route 325 (IL Route 16) in Montgomery County, Illinois, to better serve the traveling public and to subserve the public safety and convenience in Montgomery County, Illinois;

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4. Petitioner presented evidence as to the ownership by Respondent of the subject properties as to which a permanent easement and temporary easement are sought and to its efforts to obtain the desired easements by voluntary negotiations with the Respondent;

5. The evidence showed the construction can be carried out without interfering with Respondent's conduct of its rail carrier operations in the State of Illinois;

6. The desired property interest is reasonably necessary for the proposed project;

7. The prayer of the Petition herein is in the public interest and should be granted.

**IT IS, THEREFORE, ORDERED BY THE ILLINOIS COMMERCE COMMISSION** that the approval of the Commission, be, and the same is hereby, granted to the Department of Transportation of the State of Illinois, for the purpose of exercising its power of eminent domain with regard to Parcel No. 6208105PE 1-13, legally described in Appendices "A" - "M" attached hereto, for the purpose of acquiring permanent easements in said properties and, with regard to Parcel No. 6208105TE, legally described in Appendix "N" attached hereto, for the purpose of acquiring a temporary easement in said property, all of said properties as described in this Order.

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

**BY ORDER OF THE COMMISSION THIS** \_\_\_ day of \_\_\_\_\_, 2000.

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CHAIRMAN