STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

State of Illinois, Department of Transportation, Petitioner, v. Union Pacific Railroad Company Respondent. Petition for an Order authorizing relocation of Roosevelt Road (IL 38/FAP 347), located and constructed in the south half of Section 6, Township 39 North, Range 9 East of the Third Principal Meridian near the city of West Chicago, Du Page County, Illinois, and construct a grade separation structure over Union Pacific Railroad Company's tracks west of the existing at-grade crossing.	:	T11-0139

By the Commission:

On October 25, 2011, the Illinois Department of Transportation (IDOT or Department) filed the above-captioned verified Petition with the Illinois Commerce Commission (Commission) naming as Respondent the Union Pacific Railroad Company (UP). The Petition seeks authority to relocate Roosevelt Road (IL 38) and construct a new bridge to carry the roadway over the UP's tracks thereby eliminating the existing highway-rail grade crossing, currently designated as AAR/DOT #174 983M, railroad milepost 33.05, in the City of West Chicago (herein referred to as the Project). An Amended Petition was filed on November 7, 2011.

PROCEDURAL HISTORY

Pursuant to notice, the matter came on for hearing before a duly authorized Administrative Law Judge (ALJ) of the Commission via video conference at the Commission's Chicago and Springfield offices on December 13, 2011. Petitioner and Respondent were represented by counsel. Brian Vercruysse, Senior Railroad Safety Specialist, appeared for Commission Staff. At the conclusion of the hearing, the record was marked "Heard and Taken."

THE EVIDENDCE

Andy Rabadi, Senior Railroad Engineer with IDOT, testified the project is in West Chicago and Geneva, Illinois. IDOT seeks to construct an overpass to carry Illinois Route 38 over the UP tracks near the intersection of Kautz Road and Route 38, also known as Roosevelt Road. Route 38 is primarily an east-west road that angles

southeast in this area such that it intersects with UP's double mainline tracks that run east-west. Kautz Road is a north-south road that approaches Route 38 from the north and ends at its intersection with Route 38. The at-grade crossing of Route 38 and the UP tracks is approximately 300 feet east of the intersection of Route 38 and Kautz Road. The surrounding area is primarily agricultural.

The project will begin west of the intersection and continue 1.31 miles to the east. The project will begin and end on the existing Route 38 path, but the overpass route will curve south of the existing road and then back north. This will cause the point of crossing over the UP tracks to be approximately 1000 feet west of the existing at-grade crossing.

As part of the project, IDOT plans to construct a bridge that will carry Kautz road up to connect with the Route 38 overpass, at the point where the Route 38 overpass crosses the tracks. Kautz Road will end at Route 38, although it may be extended at a later date. Kautz Road will be re-routed by angling it to the west as it approaches the Route 38 overpass, such that it will intersect with Route 38 overpass at approximately a 90-degree angle.

Mr. Rabadi testified that the proposed improvements were recommended due to the high volume of vehicular traffic and train movements. James Morris, a project support engineer in IDOT's Bureau of Design and Environment, testified the Average Daily Traffic (ADT) count in this area for Route 38 was 30,300 vehicles per day. The ADT for Kautz road was 8,100. Thomas Andryuk, manager of field engineering for UP testified that 51 commuter trains and 51-60 freight trains cross the tracks daily, all with a maximum authorized speed of 70 miles per hour.

Mr. Andryuk testified the UP operates trains over a double mainline railroad track (Geneva Subdivision Track) which provides for east/west passenger and freight movements near the DuPage Airport in the City of West Chicago, DuPage County. Mr. Andryuk testified that since 1977 a total of 13 accidents occurred with 3 injuries. The crossing is ranked first for broken gates on the UP's North Region. This is attributable to the skew of the crossing (angle of intersection between the UP tracks and Roosevelt Road) and possible long gate times. A total of 10 gates were broken in 2011, 13 in 2010, and 18 in 2009.

The project is a part of the CREATE Program (Chicago Region Environmental and Transportation Efficiency Program), a partnership of railroads, local, state and federal governments designed to modernize and upgrade Illinois' railroad infrastructure to increase efficiency, improve safety and meet the growing needs of the nation's transportation hub.

Mr. Andryuk also noted that for inventory purposes, the new bridge will retain the existing USDOT crossing inventory number, but the milepost will be adjusted according to the relocation of approximately 1000 feet to the west. Upon the opening of the new bridge, the UP will remove the crossing surface, warning devices, and any other items

necessary for the elimination of the existing at-grade crossing. The intersection of Kautz Road and Route 38 are controlled by traffic signals. The railroad warning devices for the crossing are interconnected with the traffic signals at the Kautz Road intersection.

Exhibit C contains the design plans and specifications for the project.

The cost of the project is estimated at $32,863,000. IDOT intends to be responsible for the construction and the costs thereof, as well as the maintenance and costs thereof. IDOT will reimburse UP for its expenses and labor in conjunction with the project. This includes engineering plan review, flag protection, removal of the existing crossing and signal devices.

IDOT needs to finalize property acquisition from the nearby DuPage Airport, as well as receive approval from the Federal Aviation Administration. The project will take two construction seasons with overall completion expected by December 31, 2013.

RESPONDENT UP POSITION

UP filed a Response to the Petition requesting the Commission enter an order granting the Amended Petition. Mr. Andryuk testified that Union Pacific supports the project.

STAFF POSITION

Mr. Vercruysse stated that Staff has no objection to the Department's Petition, and 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 Petitioner, 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) Respondent, Union Pacific Railroad Company 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 5/18/c-1 104(30);

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, in accordance with the design plans included in its Petition, dated October 25, 2011, construct a new bridge to carry Roosevelt Road over the Union Pacific Railroad Company's tracks near the existing highway-rail grade crossing identified as AAR/DOT #174 983M, railroad milepost 33.05, in the City of West Chicago, Du Page County, Illinois;

6) The Illinois Department of Transportation should be responsible for the construction of the grade separation structures and the associated facilities that comprise the Project, consistent with the general plans and design specifications identified and admitted as Exhibit C;

7) IDOT should be responsible for performance of future maintenance on the grade separation structures and the associated facilities that comprise the Project, and the costs thereof.

8) After the new Roosevelt Road bridge over the UP's tracks is completed and open to traffic, components of the existing grade crossing (crossing surface and warning devices) should be removed by the UP;

9) The new Roosevelt Road bridge over the UP's tracks should be completed by December 31, 2013;

10) 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;

11) Any person making a Request for an 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;

12) Any person making a Request for an 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 on Petitions for Supplemental Orders;

13) 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;

14) 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 Petitioners, the Illinois Department of Transportation is authorized to construct a new bridge to carry Roosevelt Road (IL 38) over the Union Pacific Railroad Company's tracks in accordance with the plans incorporated into the Department's Petition. All work shall be completed by the respective parties in accordance with Findings Five (5) through Eighteen (14) above.

IT IS FURTHER ORDERED that the Illinois Department of Transportation shall be responsible for the construction of the grade separation structures and the associated facilities comprising the project, consistent with the general plans and design specifications identified and admitted as Exhibit C.

IT IS FURTHER ORDERED that the Illinois Department of Transportation shall be responsible for performance of future maintenance on the grade separation structures and all other elements of the Project, and the costs thereof.

IT IS FURTHER ORDERED that the Illinois Department of Transportation, 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 Illinois Department of Transportation 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 Illinois Department of Transportation, in coordination with the Union Pacific Railroad 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) for each structure.

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 Review Law.

By Order of the Commission this 4th day of April 2012.

JUDGE

SECTION CHIEF

ORDERS SUPERVISOR

Douglas P. Scott

DOUGLAS P. SCOTT
CHAIRMAN