

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

Complaint of the City of West Allis for the Repair of the Public Crossings of the Union Pacific Railroad Co. Tracks with 55th Street and 57th Street in the City of West Allis, Milwaukee County

9040-RX-1240

FINAL DECISION

By letter dated March 12, 2007, the City of West Allis filed a complaint with the Office of the Commissioner of Railroads (OCR) under §86.12, Stats., that the Union Pacific Railroad Co. (UP) has failed to maintain in good condition for public travel the public crossings of its tracks with 55th Street (crossing no. 177 234U) and 57th Street (crossing no. 177 235B) in the City of West Allis, Milwaukee County.

The resolution requiring the repairs was adopted on August 4, 2006 and sent to the railroad on August 29, 2006. The City states that the crossings have not been repaired.

Pursuant to due notice, public hearing was held in this matter on May 16, 2007 in West Allis, Wisconsin with hearing examiner Douglas S. Wood presiding.

The Union Pacific Railroad Co. did not appear at the hearing. The matter was uncontested and therefore a proposed decision is not required.

Appearances:

Parties

City of West Allis, Complainant
by
Jeffrey J. Warchol
Assistant City Attorney
7525 W. Greenfield Avenue
West Allis, WI 53214

No Appearance by Union Pacific Railroad Co.

Findings of Fact

THE COMMISSIONER FINDS:

The City of West Allis complains that the Union Pacific Railroad Co. has failed to maintain the crossings of 55th Street and 57th Street in good condition and repair for public travel. The Commissioner agrees. The UP has also been on notice about the condition of these crossings for over three years. Based on the uncontroverted testimony at the hearing, UP personnel have even

promised to repair the crossings, but then never did so. The promises presumably delayed the filing of the formal complaint.

55th Street Crossing no. 177 234U

55th Street is a 2-lane roadway and intersects the tracks at an angle of about 70°. The crossing consists of two main line tracks.

55th Street carried 468 ADT (average daily traffic) in 2005. The speed limit on 55th Street is 25 mph.

According to the FRA database, the railroad currently operates about 22 through train movements and 12 switch movements per day over both the 55th Street and 57th Street crossings at a maximum speed of 40 mph.

The crossing is a two-track crossing. The north crossing has a timber-plank and asphalt surface and is in poor condition for highway travel. The timber planks are rotten and missing chunks. Metal spikes are missing in some locations and loose and protruding in others. The planks are loose and move when vehicles drive over the crossing.

The south track crossing is a rubber-paneled crossing and is actually in much worse condition than the north track crossing. The rubber panels undulate in waves. A person walking on the rubber panels causes large areas to move up and down. The rubber panels also do not extend all the way through the crossing. The areas at the ends have old three-rail or mud-rail construction that is also very uneven. The end areas are where pedestrians venture to cross the rails.

Most vehicles drive very slowly over the crossing, but some (presumably drivers unfamiliar with the crossing) do not. This speed differential creates a safety hazard.

The 55th Street crossing urgently needs a complete rebuild. The crossing also needs immediate temporary repairs. Rotten timbers need to be replaced, timbers need to be spiked down, and the rubber panels need to be lagged or spiked down.

Under §86.12 Wis. Stats., the railroad bears an obligation to keep all highway/rail crossings in good and safe condition for public travel. The railroad has failed to do so at the 55th Street crossing. The crossing is at the end of its useful life and requires complete renewal.

57th Street Crossing no. 177 235B

57th Street is a 2-lane roadway and intersects the tracks at an angle of about 80°. The crossing consists of two main line tracks.

57th Street carried 392 ADT (average daily traffic) in 2005. The speed limit on 57th Street is 25 mph.

The crossing is a two-track crossing. Both crossings have a timber-plank and asphalt surface and are in poor condition for highway travel. The timber planks are rotten and missing chunks. Metal spikes are missing in some locations and loose and protruding in others. The planks are loose and move when vehicles drive over the crossing.

Most vehicles drive very slowly over the crossing, but some (presumably drivers unfamiliar with the crossing) do not. This speed differential creates a safety hazard.

The 57th Street crossing urgently needs a complete rebuild. The crossing also needs immediate temporary repairs. Rotten timbers need to be replaced and all timbers need to be spiked down.

The railroad has failed to maintain the 57th Street crossing in good and safe condition for public travel. The crossing is at the end of its useful life and requires complete renewal.

Ultimate Conclusions on the Issues

THE COMMISSIONER CONCLUDES:

That the Union Pacific Railroad Co. has failed to maintain the crossings at-grade of 55th Street and 57th Street with its tracks in good condition and repair for public travel in the City of West Allis, Milwaukee County.

Conclusion of Law

THE COMMISSIONER CONCLUDES:

That the jurisdiction of the Office of the Commissioner of Railroads under §86.12, Wis. Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

Order

THE COMMISSIONER ORDERS:

1. That the **Union Pacific Railroad Co.** shall repair the crossing at-grade of **55th Street** with its tracks by fully renewing the crossing with a concrete-paneled surface in the City of West Allis, Milwaukee County by **October 1, 2007** (crossing no. 177 234U).

2. That the **Union Pacific Railroad Co.** shall repair the crossing at-grade of **57th Street** with its tracks by fully renewing the crossing with a concrete-paneled surface in the City of West Allis, Milwaukee County by **October 1, 2007** (crossing no. 177 235B).

3. That the **Union Pacific Railroad Co.** shall perform temporary repairs to the crossing at-grade of **55th Street** with its tracks by replacing timbers planks, spiking down all timber planks, and lagging or spiking all rubber panels within the crossing surface as needed to improve the ride over the crossing surface in the City of West Allis, Milwaukee County by **July 1, 2007**.

4. That the **Union Pacific Railroad Co.** shall perform temporary repairs to the crossing at-grade of **57th Street** with its tracks by replacing timbers planks and spiking down all timber planks within the crossing surface as needed to improve the ride over the crossing surface in the City of West Allis, Milwaukee County by **July 1, 2007**.

5. That jurisdiction is retained.

Dated at Madison, Wisconsin, (June 1, 2007).

By the Office of the Commissioner of Railroads.

Rodney W. Kreunen
Commissioner of Railroads

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