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**Before the Iowa State Commerce Commission: in the matter of application for installation of automatic highway-railroad grade crossing signal protection at the location where main street crossed the tracks of the Burlington Northern Inc. in the town of Lucas, Iowa
: docket no. A-6901: decision and order decided April 30, 1974.**

STATE OF IOWA

IOWA STATE COMMERCE COMMISSION

IN THE MATTER OF:)

APPLICATION FOR INSTALLATION OF)
AUTOMATIC HIGHWAY-RAILROAD GRADE)
CROSSING SIGNAL PROTECTION AT THE)
LOCATION WHERE MAIN STREET CROSSES)
THE TRACKS OF THE BURLINGTON NORTHERN)
INC. IN THE TOWN OF LUCAS, IOWA.)

DOCKET NO. A-6901

BURLINGTON NORTHERN INC.,)

Applicant.)

ORDER ACCEPTING STIPULATION, REQUIRING INSTALLATION OF
AUTOMATIC SIGNAL PROTECTION AND ALLOCATING COST OF SUCH
PROTECTION BETWEEN TOWN OF LUCAS AND THE HIGHWAY GRADE
CROSSING SAFETY FUND AND DIRECTING \$450 BE PAID ON AN
ANNUAL BASIS FROM THE HIGHWAY GRADE CROSSING SAFETY FUND
TOWARD THE MAINTENANCE OF THE AUTOMATIC SIGNAL PROTECTION

(Issued April 30, 1974)

APPEARANCES:

D. J. GOODE, Attorney at Law, (Nyemaster, Goode, McLaughlin,
Emery & O'Brien) Tenth Floor, Hubbell Building, Des Moines, Iowa,
appearing on behalf of Burlington Northern Inc., Applicant.

VIRGIL E. MEYER, Attorney, 106 Grand - Box 678, Chariton,
Iowa, appearing on behalf of the Town of Lucas, Iowa, Respondent.

GARY ANKENY, Assistant Legal Counsel, Iowa State Commerce
Commission, 300 Fourth Street, Des Moines, Iowa, appearing on
behalf of the Commission Staff.

On February 11, 1974, Application was filed by the Burlington
Northern Inc., (Railroad) requesting determination for the need of
automatic highway-railroad signal protection at the location where
Main Street in Lucas, Iowa, crosses the tracks of the Railroad;
and for a determination of the allocation of costs between the

Town of Lucas, Iowa, the Railroad and the Highway Grade Crossing Safety Fund. On the basis of the facts stipulated to by the parties on April 12, 1974, we make the following findings.

The two mainline tracks of the Railroad extend in a general east-west direction and are crossed by Main Street which extends in a general north-south direction.

A traffic count taken at this location on January 31, 1974, from 6 a.m. to 6 p.m. showed a daily usage of 5 pedestrians, 123 trucks, 198 automobiles, 25 buses, 2 bicycles and 4 tractors. Railroad traffic at this location consists of 10 regularly scheduled eastbound trains and 11 westbound trains.

The maximum permitted train operating speed at this location is 50 miles per hour eastbound and 60 miles per hour westbound for freight trains, and 79 miles per hour for passenger trains both directions. Motor vehicle speed on Main Street is 25 miles per hour. Various obstructions to the motorist's view of approaching trains exist, thereby creating a hazard at this crossing location. The present wig-wag signal and bell and reflectorized cross buck located on the north side of the track, does not afford adequate protection to the motoring public. We find side of street flashing light signals with automatic short arm gates should be installed in order to alleviate the hazard at this crossing.

The Commission further finds:

1. We have jurisdiction of the parties and subject matter pursuant to Sections 478.21, 478.22, 478.23, and 478.26 of the Code of Iowa.
2. Main Street in Lucas, Iowa, is not a Federal or Federal-aid highway and therefore the cost of any automatic signal protection ordered installed may be allocated from the Highway Grade Crossing Safety Fund.

3. The Railroad, the Town of Lucas, Iowa, and the Commission Staff have agreed to the facts and have requested the Commission to make its determination on any changes to be made based upon the Stipulation dated April 12, 1974. It is in the public interest to accept such Stipulation where all parties agree to the material facts.

4. Under the regulatory framework of Chapter 478, in addition to resolving disputes between governmental units and railroads relative to highway-railroad grade crossings, we have the further responsibility of determining what portion, if any, of related expense will be borne by each party to the controversy.

5. The allocation of costs on the basis of the benefits accruing to the railroad and governmental unit involved as it bears to the general public benefits will be equitable in this proceeding. In allocating costs on such a basis we must, under Section 478.23, follow the standards adopted for a similar purpose by the United States Bureau of Public Roads. These standards exclude allocation of installation costs to the railroad where automatic signal protection is ordered. Accordingly, we find the Railroad should not be allocated any part of the cost of construction of the protective devices herein ordered.

6. The 65th General Assembly, 1st Session, pursuant to Senate File 112 has directed the Highway Grade Crossing Safety Fund to pay one-half of the annual maintenance cost but not more than \$450 per year per flasher light signal protection ordered installed. Therefore, the Highway Grade Crossing Safety Fund should pay \$450 on an annual basis toward the cost of maintenance of the automatic signal protection.

7. The Town of Lucas, Iowa, pursuant to the Stipulation, stated its willingness and ability to pay a nominal portion of the cost of signalization. We find the record supports the apportionment of ten (10) percent of the cost of installation of the protective devices to the Town of Lucas, Iowa.

The Commission orders:

That the application of the Railroad for the installation of automatic highway-railroad grade crossing signal protection at the location where Main Street crosses the tracks of the Burlington Northern Inc., in Lucas, Iowa, and the allocation of costs for such installation be and it is hereby granted, subject to the following conditions.

1. That the Burlington Northern Inc. will install two-way flashing light signals with automatic short-arm gates and one bell at a cost not to exceed \$35,060 at the location where Main Street crosses the tracks of the Burlington Northern Inc., in Lucas, Iowa; said installation to conform with requisites and specifications of the Association of American Railroads, Signal Section, and to Type "D" of "General Plan for Various Types of Railroad Highway Crossing Signals" of this Commission, last revised November 14, 1956.

2. That the Town of Lucas, Iowa, pay one-tenth, \$3,506, toward the cost of such installation to cover its share of the benefits. Said Town is accordingly required to deposit its portion of the money in a bank of its choice, within thirty (30) days from receipt of this Order, said money to be held in escrow until such time as the installation has been completed and accepted in its final form by this Commission, at which time the money will be released to the Railroad. At such time as the deposit has been made in escrow, said Town will furnish this Commission, and to the Railroad, a written statement from the bank that said deposit has been made in escrow, after which the Railroad will commence its plans and order the necessary material; said installation to be completed within nine (9) months from such notification of deposit, unless said time be further extended by this Commission for good cause shown.

3. The Burlington Northern Inc. shall thereafter maintain and repair the protective devices herein ordered and the Highway Grade Crossing Safety Fund will pay \$450 annually toward the maintenance and repair cost with the remainder of such annual cost to be paid by Burlington Northern Inc.

4. That upon completion and acceptance of the installation the remainder of the installation cost, not above pledged in paragraph 2, shall be contributed out of the Highway Grade Crossing Safety Fund; provided, however, that the participation of said fund for the cost of installation shall not be in excess of \$31,554.

5. That the Railroad, prior to beginning the installation of signals, will submit detailed plans for examination and approval by this Commission.

IOWA STATE COMMERCE COMMISSION

Maurice Van Nostrand
Chairman

Fred H. Meom
Commissioner

ATTEST:

Dean A. Bailey
Secretary

Howard Bell
Commissioner

Dated at Des Moines, Iowa this 30th day of April, 1974.

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