

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Jamie L. Reyes,) Application No. DC-98
Director of the Motor)
Transportation Department of the)
Nebraska Public Service)
Commission,)
)
Complainant,) ORDER GRANTING REQUEST FOR
v.) EXTENSION, IN PART
)
Union Pacific Railroad Company)
and Nebraska Central Railroad)
Company.,)
)
Respondent.) Filed: August 20, 2020

BY THE HEARING OFFICER:

On July 30, 2020, a Departmental Complaint was filed with the Nebraska Public Service Commission ("Commission") by Jamie L. Reyes, Director of the Motor Transportation Department, seeking a determination that Union Pacific Railroad Company ("UPRR") Omaha, Nebraska, blocked the crossings at Fourth and Seventh Street, Grand Island, Nebraska, on or around January 15, 2020, in violation of Neb. Admin. Code, Title 291, Ch. 4, § 002.09D.

According to Neb. Admin. Code, Title 291, Ch. 1, § 004.02B1, the deadline set for a respondent to file an Answer to a Departmental Complaint is twenty (20) days after service of the complaint. On August 6, 2020, the Commission received the return receipt indicating service of the complaint had been completed on UPRR. However, the return receipt did not indicate the "date of delivery."

Therefore, a date of delivery must be inferred in order to accurately calculate the filing date of a responsive pleading. Pursuant to Neb. Admin. Code, Title 291, Ch. 1, § 002.06, "[i]f a document is served via first class mail, the date of service of a document is the date of the mailing plus three (3) days." As such, the date of service for the complaint would then be August 2, 2020. However, according to Neb. Admin. Code, Title 291, Ch. 1, § 002.02, in computing time prescribed by the Commission's Rules and Regulations, if the last day of the period falls on a Saturday, Sunday, or state holiday, the period will include the next working day. Thus, because the calculation of the inferred date of service would end on Sunday, August 2, the computation of time for a

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responsive pleading would begin on August 3, 2020. Accordingly, the deadline for UPRR to file an answer was established as August 24, 2020.

On August 14, 2020, UPRR filed a motion for a twenty (20) day extension of time to Answer the complaint. UPRR stated in its motion that counsel had recently been retained and further time is needed to investigate the allegations.

I find that UPRR's Motion for an extension of time to file an Answer should be granted, in part. Given the circumstances surrounding the complaint, I believe an extension of ten (10) days is warranted. Therefore, I find that UPRR has until **September 3, 2020 at 3:00 p.m.**, to file an Answer in the above-captioned proceeding.

O R D E R

IT IS THEREFORE ORDERED by the Hearing Officer that the motion by Union Pacific Railroad Company, Omaha, Nebraska, for an extension of the deadline to file an Answer be, and is hereby, granted in part, and the deadline for filing an Answer is extended to **Thursday, September 3, 2020 at 3:00 p.m.**

MADE AND ENTERED at Lincoln, Nebraska this 20th day of August, 2020.

NEBRASKA PUBLIC SERVICE COMMISSION

By:



Hearing Officer
Mary Ridder