**Section 1536.40 Criteria for Crossing Opening**

a) When a petition is filed to extend a public road, highway or street across a track at grade the Commission shall determine if the following criteria are satisfied:

1) there is presently inadequate or no vehicular access to the area to be served by the crossing;

2) alternate vehicular access cannot be provided at a cost equal to or less than the cost of establishing the crossing;

3) the crossing would not meet the Commission's criteria for closure specified in Section 1536.20 of this Part;

4) the crossing's average daily traffic (ADT) would be at least 1,000 vehicles per day within 3 years after the crossing was established;

5) the crossing's location does not interfere with the railroad's operational activities such as switching and usage of a passing track(s) which would result in substantial delay of, or hazard to, motor vehicles; and

6) the crossing does not pose risks to train crews or motorists beyond those normally associated with at-grade crossings.

b) The Commission shall order the construction of a new at-grade crossing if all of the criteria set forth in subsection (a) above are satisfied or if, under the provisions of Section 18c-7401 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-7401] (ICTL), the Commission finds, based on the totality of evidence presented, public convenience and necessity requires the opening.

c) Notwithstanding the provisions of subsection (b) above, the Commission may order the construction of a grade separation if evidence of record supports such a finding.

d) The Commission shall allocate the cost associated with the construction of a new at-grade crossing or grade separation required by subsection (a), (b) or (c) above among the highway agency(s), IDOT, and the Grade Crossing Protection Fund. The Commission may also allocate costs to the railroad when evidence of record supports such allocation.