**Section 1500.810 Authorization to Construct and Operate**

a) When Permission for Construction is Not Necessary. Except such as may be required by law or by any order of this Commission, permission will not be necessary for any railroad to construct any tracks or other appurtenances or to operate on such tracks provided the track centers and clearances alongside such tracks or other appurtenances conform to this Part.

b) When Permission for Construction is Necessary. Application shall be made to this Commission for permission to construct and maintain such tracks or other appurtenances, or to operate on such tracks, where track centers and clearances will not or do not conform to this Part. The application for such permission shall be submitted by the railroad company involved, or jointly by the railroad company and the owner of the property when the track or appurtenances are upon private property. Each application must be accompanied by a plan showing the location of the proposed track or other appurtenance and the clearances that it is desired to maintain.

c) The Commission shall consider the following in determining whether a variation shall be permitted:

1) The impact, if any, on the safety of railroad employees;

2) The expense to the carrier or others, if the variation is not granted; and

3) Experience with similar variations at other locations. Similar variations would be situations involving like reduced clearances and like railroad operations. Lack of any problems would indicate acceptable experience.

(Source: Amended at 29 Ill. Reg. 20360, effective December 15, 2005)