

Decision No. C23-0818

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0448R

IN THE MATTER OF THE APPLICATION OF THE CITY OF COLORADO SPRINGS AND THE COUNTY OF EL PASO FOR AUTHORITY TO ABOLISH AND REMOVE THE EXISTING HIGHWAY-RAIL CROSSING AND ASSOCIATED CROSSING WARNING DEVICES AT ROYER STREET AND TRACKS MANAGED BY THE BNSF RAILWAY ON RIGHT-OF-WAY OWNED BY UNION PACIFIC RAILROAD (USDOT NO. 253109P), AND CONSTRUCT A NEW AT-GRADE CROSSING NAMED TWIN BRIDGES ROAD AT APPROXIMATE M.P. 77.80 OF THE BNSF RAILWAY/UNION PACIFIC RAILROAD WITH ACTIVE CROSSING WARNING DEVICES IN THE CITY OF COLORADO SPRINGS, EL PASO COUNTY, STATE OF COLORADO.

COMMISSION DECISION GRANTING APPLICATION

Mailed Date: December 8, 2023

Adopted Date: December 6, 2023

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the City of Colorado Springs (Colorado Springs) and El Paso County (collectively, Applicants), on September 1, 2023, requesting authority to close the existing crossing of Royer Street with the right-of-way of the Union Pacific Railroad Company (UPRR) and the tracks of the BNSF Railway Company (BNSF) (collectively, Railroads), railroad milepost 76.64 of the Colorado Springs Subdivision, National Inventory No. 253109P, and to construct a new at-grade crossing including flashing lights, gates, bells, constant warning time circuitry, new railroad signal bungalow, interconnection with and preemption of a new traffic signal at the intersection of Twin Bridges Road with Las Vegas Street at approximate railroad

milepost 77.80 of the Colorado Springs Subdivision, no current National Inventory No. , in Colorado Springs and El Paso County, State of Colorado.

2. The Commission gave notice of this Application (Notice) to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S. The Notice was mailed September 6, 2023.

3. The Commission issued an Errata Notice to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S. This Notice was mailed September 18, 2023.

4. On October 3, 2023, UPRR filed an Entry of Appearance and Notice of Intervention. UPRR does not context or oppose the Application.

5. On October 9, 2023, the City of Colorado Springs filed the Affidavit of Gayle Sturdivant, Colorado Springs City Engineer, attesting that the required notice of closure signs were posted at the Royer Street crossing on September 18, 2023. Exhibit A to the Affidavit includes a copy of the Notice of Proposed Closing of This Crossing sign that was posted and photos showing where the signs were closed.

6. The Commission has reviewed the record in this matter and deemed the Application is complete within the meaning of § 40-6-109.5, C.R.S. by order of rule.

7. Now being fully advised in the matter, we grant the Application.

B. Findings of Fact

8. The Commission gave notice to all interested parties, including the adjacent property owners. No intervention was received opposing the Application.

9. The Applicants request authority to close the crossing at Royer Street and open a new crossing south of Royer Street at the location of the new Twin Bridges Road. Each part of the Application is discussed separately.

10. The Royer Street crossing sits at the top of a steep and short climb from E. Las Vegas Street. The Royer Street crossing has 26 documented highway-rail grade crossing accidents between 1975 and 2018 including seven injury accidents, and 19 property damage only accidents. Of the 26 accidents, 12 were the result of a vehicle that was either stopped or stuck/hi-centered on the crossing. The new Twin Bridges Road will provide one road that former users of Royer Street can use to cross the tracks. With the high number of accidents documented at the Royer Street crossing, we do not need to conduct a risk assessment as the number of accidents will show a high-risk index compared to other crossings in Colorado.

11. The second part of the request by the Applicants is to open a new crossing at the location of the future Twin Bridges Road. This will provide a location for vehicles to be able to cross a much less steep roadway to cross.

12. The Applicants propose to construct a new road called the Twin Bridges Road, construct the crossing with flashing lights, gates, bells new signal bungalow, and constant warning time circuitry. The front sheet shows a cantilever signal at the crossing, but this is not requested by the Applicants. The new traffic signal at Twin Bridges Road and E. Las Vegas is proposed to be interconnected to and preempted by the railroad signal.

13. The Applicants state there are currently approximately 22 trains per day traveling at a maximum timetable speed of 40 miles per hour (MPH). BNSF states in its Application there are currently approximately five trains per day using the subject crossing at a timetable speed of 50 miles per hour on the mainline. The existing traffic volumes at Royer Street are 3,600

vehicles per day (VPD) with 9.9 percent heavy vehicles using the crossing. Once the Twin Bridges Road is in operation, the Applicants estimate 8,600 VPD in five years and 12,400 VPD in 20 years.

14. Colorado Springs is funding 100 percent of the costs to remove the Royer Street crossing, and the new Twin Bridges Road crossing and Colorado Springs and El Paso County will pay for the cost of the new roadway and crossing signal equipment. The total cost of the closure and new crossing is estimated at \$11,618,604.

15. The Applicants plan to start construction of the new crossing, railroad signals, and traffic signal in August 2023 and be completed by December 2024. We will require the Applicants to inform the Commission in writing that the project has been completed by December 31, 2024, although we understand this completion may be earlier or later based on weather and construction schedule.

16. We will also require the Applicants to file a signed copy of the Construction and Maintenance of this project before start of work on the project.

17. The railroads will be required to provide a new U.S. DOT Inventory Form for the new crossing by the end of the project estimated to be on December 31, 2024.

C. Conclusions

18. The Commission has jurisdiction in this matter under §§ 40-4-106(2)(a) and (3)(a), C.R.S.

19. No intervenor that filed a petition to intervene or other pleading contests or opposes the Application.

20. Because the Application is unopposed, the Commission finds that it will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 1403, 4 *Code of Colorado Regulations* 723-1 of the Rules of Practice and Procedure.

21. We find that good cause exists and that the requirements of public safety are met by granting the Application consistent with the above discussion.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the City of Colorado Springs (Colorado Springs) and El Paso County (collectively, Applicants), on September 1, 2023, requesting authority to close the existing crossing of Royer Street with the right-of-way of the Union Pacific Railroad Company (UPRR) and the tracks of the BNSF Railway Company (BNSF) (collectively, Railroads), railroad milepost 76.64 of the Colorado Springs Subdivision, National Inventory No. 253109P, and to construct a new at-grade crossing including flashing lights, gates, bells, constant warning time circuitry, new railroad signal bungalow, interconnection with and preemption of a new traffic signal at the intersection of Twin Bridges Road with Las Vegas Street at approximate railroad milepost 77.80 of the Colorado Springs Subdivision, no current National Inventory No., in Colorado Springs and El Paso County, State of Colorado was deemed complete within the meaning of § 40-6-109.5, C.R.S. on November 2, 2023.

2. The Application is granted.

3. The Applicants are authorized and ordered to construct the new crossing at the crossing of the new Twin Bridges Road- with the Railroads including flashing, lights, gates, new signal bungalow, constant warning time circuitry with no cantilever signal as shown on the

BNSF front sheet, and to interconnect with and preempt the new traffic signal at the intersection of Twin Bridges Road and E. Las Vegas Boulevard in Colorado Springs, El Paso County.

4. The Applicants are also authorized and ordered to close the crossing of Royer Street by removal of the railroad crossing equipment, the crossing surface, and modifying the approaches so that vehicles are not able to use the crossing.

5. The Applicants shall inform the Commission in writing when the project is complete within ten days of completion. The Commission will expect the letter by December 31, 2024. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

6. We will also require the Applicants to file a signed copy of the Construction and Maintenance of this project before start of work on the project.

7. The Railroads BNSF shall update the National Inventory Form for the Royer Street crossing showing the crossing as closed and shall assign a new U.S. DOT Inventory for the Twin Bridges Road and to file copies of these forms in this proceeding by December 31, 2024.

8. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

9. The Commission retains jurisdiction to enter further decisions as necessary.

10. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 6, 2023.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners