

Decision No. C24-0082

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0051R

IN THE MATTER OF THE APPLICATION OF BNSF RAILWAY COMPANY TO CHANGE THE OPERATION OF THE TRACK CIRCUITRY FROM MOTION DETECTION TO CONSTANT WARNING TIME FOR THE CROSSING AT STATE HIGHWAY 72 AND 49TH AVENUE IN THE CITY OF WHEAT RIDGE, JEFFERSON COUNTY, COLORADO (DOT #244752Y).

**COMMISSION DECISION SHORTENING NOTICE TO
SIX DAYS, DEEMING APPLICATION COMPLETE, AND
GRANTING APPLICATION**

Mailed Date: February 7, 2024
Adopted Date: February 7, 2024

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of a Motion for Expedited Review and Approval of Application (Motion) filed by BNSF railway Company (BNSF) on January 31, 2024, requesting an expedited review, shortened notice to no more than seven days, and approval of the Application (Application) to replace detection circuitry at the crossing of State Highway 72/Ward Road (Ward Road) with the tracks of the BNSF at approximate railroad milepost 10.83 of the Golden Subdivision, National Inventory No. 244752Y, located near the City of Wheat Ridge, County of Jefferson, in the State of Colorado.

2. A shortened six-day Notice of the Application (Notice) was provided by the Commission to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S., on February 1, 2024.

3. No interventions were filed in this matter.

4. The Commission has reviewed the record in this matter and deems the Application complete within the meaning of § 40-6-109.5, C.R.S.

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

6. Now being fully advised in the matter, we grant the Motion for Expedited Review and Approval of Application, shorten Notice to six days, and grant the Application.

B. Findings of Fact

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

8. BNSF is currently using motion detection circuitry at the crossing of the BNSF with Ward Road. The existing motion detection is currently intermittently failing due to AC interference on the track originating from an undetermined source. Multiple credible reports of the malfunction have been collected. BNSF has made numerous attempts to mitigate the efforts of the frequency changes without success. Pursuant to Federal Railroad Administration rules §§ 234.103 and 234.207, the railroad, upon discovery of a highway-rail grade crossing active warning system failure, malfunction, or defective condition is responsible to taking remedial action without undue delay.

9. BNSF is not aware of any potential opposition to the relief requested in the Application and has been in direct communication with the Colorado Department of Transportation (the road authority), and PUC staff.

10. There are currently two trains per day that use the crossing at a maximum timetable speed of 20 miles per hour (MPH) with no anticipated increases or decreases in the

number or character of trains at this time. The latest vehicle counts in 2019 shows there are currently 10,000 Vehicles Per Day (VPD) with approximately 3.5 percent heavy vehicles and school buses using the crossing at a posted speed limit of 55 MPH. Vehicle volume is projected to increase to 10,470 VPD in 5 years and 12,000 VPD in 20 years.

11. There have been six accidents at the crossing since 1975 including five property damage only accidents in 1977, 1978, 1979, 1981, and 1983, and one injury accident in 1984.

12. BNSF estimates \$2,300 for the signal and labor costs with BNSF paying for the cost of this project.

13. BNSF proposes to start the project immediately upon Commission approval and should complete the project in the same day. We will require BNSF to inform us in writing that construction is complete within ten days of project completion. We shall expect this letter by February 19, 2024. We also require BNSF to file a copy of the updated U.S. DOT National Inventory form showing the detection circuitry change and file the updated copy in this proceeding by February 19, 2024.

C. Conclusions

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

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

16. 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 CCR 723-1 of the Rules of Practice and Procedure.

17. We find that good cause exists and the requirements of public safety are met by granting the Motion for Expedited Review and Approval of Application, and grant the Application consistent with the above discussion.

II. ORDER

A. The Commission Orders That:

1. The a Motion for Expedited Review and Approval of Application (Motion) filed by BNSF railway Company (BNSF) on January 31, 2024 requesting an expedited review, shortened notice to no more than seven days, and approval of the Application (Application) to replace detection circuitry at the crossing of State Highway 72/Ward Road (Ward Road) with the tracks of the BNSF at approximate railroad milepost 10.83 of the Golden Subdivision, National Inventory No. 244752Y, located near the City of Wheat Ridge, County of Jefferson, in the State of Colorado, is granted.

2. The Application filed by BNSF is deemed complete within the meaning of § 40-6-109.5, C.R.S.

3. The Application is granted.

4. BNSF is authorized and ordered to proceed with the detection circuitry replacement at the crossing of BNSF with Ward Road.

5. BNSF shall inform the Commission in writing when the detection circuitry change is complete and operational within ten days of completion. The Commission will expect this letter by February 19, 2024.

6. We will also require BNSF to update the detection circuitry type on the U.S. DOT National Inventory Form and file the updated form by February 19, 2024.

7. 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.

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

9. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 7, 2024.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners