

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE APPLICATION)	DOCKET NO. 92A-660R
OF THE REGIONAL TRANSPORTATION)	
DISTRICT AND THE DENVER AND RIO)	COMMISSION ORDER
GRANDE WESTERN RAILROAD COMPANY FOR)	
AUTHORITY TO REMOVE THE D&RGW'S)	GRANTING APPLICATION
FORMER SOUTHBOUND MAIN, TO UPGRADE)	
THE FORMER D&RGW NORTHBOUND MAIN,)	
TO INSTALL A NEW LRT TRACK AND THE)	
GENERAL CONSTRUCTION OF ONE RAILROAD))	
CROSSING AND TWO LIGHT RAIL)	
CROSSINGS AT WEST 13TH AVENUE, IN)	
THE CITY AND COUNTY OF DENVER,)	
STATE OF COLORADO.)	

 Adopted Date: January 5, 1994
 Mailed Date: January 6, 1994

STATEMENT

BY THE COMMISSION:

1. On November 3, 1992, the Regional Transportation District (RTD) and The Denver and Rio Grande Western Railroad Company (DRGW) filed this application for authority to remove the old DRGW southbound mainline track, reconstruct the old DRGW northbound mainline track, construct two new light rail tracks and upgrade the grade crossing warning devices at the crossing of West 13th Avenue, Railroad Milepost 1.47, National Inventory I.D. No. 253-014G, in the City and County of Denver, Colorado.

2. On November 17, 1992, the Staff of the Commission filed its Entry of Appearance and Notice of Intervention.

3. The Commission set the matter for hearing and gave notice of the hearing and notice of this application, together with a copy of the application, to all interested parties, including the adjacent property owners in accordance with § 40-6-108(2), C.R.S. (1993). The notice was mailed November 17, 1992.

4. On December 28, 1992, the RTD and DRGW filed a motion to vacate the hearing and to proceed without a formal hearing under Rule 24. Staff did not oppose this request. This motion was granted by Decision R93-32-I, mailed January 14, 1993.

5. On January 11, 1993, the City and County of Denver, Colorado (Denver), filed its Entry of Appearance and Notice of Intervention.

6. On July 22, 1993, the Commission received a copy of the fully executed agreement, dated July 14, 1993, by and between the Colorado Department of Transportation, Division of Highways (CDOT), RTD, and DRGW, pertaining to the proposed grade crossing warning devices, including signal plans, estimates of cost, and a copy of the Light Rail System Master Agreement between RTD and the City and County of Denver (Denver), dated March 25, 1993.

7. The Commission will determine this matter upon the record, without a formal oral hearing, under § 40-6-109(5), C.R.S. (1993), and Commission Rule of Practice and Procedure No. 24 because the application is noncontested and unopposed and the applicants requested that the application be granted without a public hearing.

FINDINGS OF FACT

THE COMMISSION FINDS:

1. The purpose of this application is to secure Commission approval to remove a DRGW track, reconstruct a DRGW track, construct two RTD light rail tracks, and to upgrade the grade crossing warning devices at the crossing of West 13th Avenue at Railroad Milepost 1.47, National Inventory I.D. No. 253-014G, in the City and County of Denver, Colorado.

2. Notice of the proposed modification of the trackage and the upgrading of the grade crossing warning devices has been given by the Commission to all interested parties, including the adjacent property owners. No intervenor who filed a petition to intervene or other pleading contested or opposed the application.

3. The average daily vehicular traffic (ADT) count on West 13th Avenue at the existing crossing is approximately 6400 ADT, with an allowable road speed of 30 MPH. Approximately eight DRGW train movements per day with a maximum train speed of 20 MPH and 280 RTD light rail vehicle movements per day at a maximum speed of 55 MPH will cross the crossing.

4. The subject crossing is presently protected with standard mast-mounted flashing light signals with gates and warning bell.

5. Funding for the proposed grade crossing warning devices is available under Title 23 U.S.C., and therefore, funding under § 40-4-106(2)(b), C.R.S. (1993) does not apply. There is no railroad cost sharing for this project pursuant to 23 U.S.C. 130(b) and 49 C.F.R. 1.48.

6. The work to be done and the expenses therefor will be paid for in accordance with the appropriate rules and regulations of the Federal Government and are covered by an agreement dated July 14, 1993, between RTD, DRGW, and the State Department of Transportation, State of Colorado (CDOT). The estimated total cost of the project is \$151,272. The estimated cost of the railroad signal work is \$138,972.

7. Maintenance of the roadway approaches to the crossing will remain the responsibility of the DRGW. Maintenance of the crossing surface, roadbed, tracks, grade crossing signals, gates, and appurtenances will continue to be the responsibility of DRGW and RTD in accordance with the agreement dated July 14, 1993, by and between RTD, DRGW, and CDOT.

8. All exhibits, specifications, and plans are complete, accurate, and meet Commission requirements.

9. The public safety, convenience, and necessity requires, and will be served by the granting of this application.

CONCLUSIONS ON FINDINGS OF FACT

1. The Commission has jurisdiction in this matter under § 40-4-106(2)(a) & (3)(a), C.R.S. (1993).

2. No intervenor who filed a petition to intervene or other pleading contested or opposed the application. The application is noncontested and unopposed.

3. The Commission will determine this matter on the record, without a formal hearing, under § 40-6-109(5), C.R.S. (1993) and Commission Rule of Practice and Procedure No. 24, 4 CCR 723-1.

4. The public safety, convenience, and necessity requires, and will be served by, the granting of this application.

ORDER

THE COMMISSION ORDERS THAT:

1. The Regional Transportation District and The Denver and Rio Grande Western Railroad Company, are authorized and directed to remove a DRGW track, reconstruct a DRGW track, construct two RTD light rail tracks, and to upgrade the grade crossing warning devices at the crossing of West 13th Avenue across the yard track of the Denver and Rio Grande Western Railroad Company at Railroad Milepost 1.47, National Inventory I.D. No. 253-014G, in the City and County of Denver, Colorado.

2. The modification of the trackage and the installation of the warning devices authorized in Ordering Paragraph No. 1 above shall be in accordance with the plans, specifications, and exhibits, as revised, submitted in this application, and hereby approved.

3. The installation, operation, and maintenance of the crossing warning devices at this crossing shall comply with the agreement dated July 14, 1993, between the Regional Transportation District, State of Colorado, the State Department of Transportation, State of Colorado, and The Denver and Rio Grande Western Railroad Company.

4. The total actual cost of labor and material required for installation of the grade crossing warning devices shall be paid in accordance with the provisions of Title 23 U.S.C. 130(b) and 49 C.F.R. 1.48.

5. The Denver and Rio Grande Western Railroad Company and the Regional Transportation District shall each maintain their own warning devices at their own expense for the life of the crossing so protected.

6. Upon completion of the installation of the grade crossing warning devices ordered herein, the Regional Transportation District shall notify the Commission in writing within ten days of the initial operation of the warning devices.

7. If the installation authorized in Ordering Paragraph No. 1 above has not been completed within nine (9) months of the effective date of this order, the Regional Transportation District shall file with the Commission:

- a. A status report of the project; and
- b. A progress report each month after the status report is filed, until the installation is completed.

8. The Commission retains jurisdiction to enter further required orders.

This Order is effective immediately.

DONE IN OPEN MEETING January 5, 1994.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Robert E. Semmer

Christine E. M. Alvar

Vincent Majkowski

Commissioners