

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-255R

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF DELTA, COLORADO,
FOR AN ORDER AUTHORIZING THE INSTALLATION OF A RAILROAD CROSSING
PROTECTION DEVICE TO BE CONSTRUCTED ON THE RIGHT-OF-WAY OF THE
UNION PACIFIC RAILROAD COMPANY AND DELTA COUNTY ROAD J75 DRIVE (US
DOT-AAA GRADE CROSSING ID NO. 254-020N AT UPRR MILEPOST 0404.36), PAONIA,
COLORADO.

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: September 23, 2003
Adopted Date: September 17, 2003

I. BY THE COMMISSION

A. Statement

1. On June 11, 2003, the County of Delta, Colorado (Delta), filed this application requesting authority to install grade crossing warning devices consisting of flashing light signals with gates, bell, and motion detection track circuits at the crossing of Delta County Road J75 Drive across the tracks and right-of-way of the Union Pacific Railroad Company (UPRR) at railroad milepost 404.36, National Inventory I.D. No. 254-020N, near the Town of Paonia, in Delta County, Colorado.

2. On June 17, 2003, the Staff of the Commission filed its Entry of Appearance and Notice of Intervention.

3. The Commission gave 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.. This Notice was mailed June 17, 2003.

4. On June 20, 2003, the Colorado Department of Transportation (CDOT) filed its Entry of Appearance and Notice of Intervention.

5. On July 18, 2003, UPRR filed its Entry of Appearance and Notice of Intervention.

6. On September 5, 2003, the Commission received a copy of the fully executed construction and maintenance contract by and between the CDOT, Delta, and UPRR, dated August 27, 2003.

7. Delta has waived the time limits set forth in § 40-6-109.5, (1) & (2), C.R.S. for this application.

8. The Commission has reviewed the record in this matter and deems that the application is now complete within the meaning of § 40-6-109.5, C.R.S.

9. The Commission will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 24, Commission Rule of Practice and Procedure, 4 *Colorado Code of Regulations* (CCR) 723-1, because the application is noncontested and the Applicant did not request a public hearing.

B. Findings of Fact

10. The purpose of this application is to secure Commission approval to install grade crossing warning devices consisting of flashing light signals with gates, bell, and motion detection track circuits at the crossing of J75 Drive across the tracks and right-of-way of UPRR at railroad milepost 404.36, National Inventory I.D. No. 254-020N, near the Town of Paonia, in Delta County, Colorado.

11. J75 Drive is a twenty-four foot wide paved road with two-foot shoulders and is classified as a Rural Minor Collector road. The roadway used by local and commuter traffic, school buses, and truck and farm equipment.

12. UPRR operates 2 to 6 trains per day over the crossing with a projected increase to an average of 10 trains by 2004. The average daily vehicular traffic (ADT) over the crossing is 100 vehicles per day, including a school bus twice a day, five days a week. The posted speed limit is 45 mph.

13. The work to be done and the expenses therefor will be paid in accordance with the appropriate rules and regulations of the Federal Government and are covered by an agreement by and between CDOT, Delta, and UPRR dated August 27, 2003. The total estimated cost of the railroad portion of the project is \$154,777.

14. Maintenance of the roadway approaches to the crossing will be the responsibility of Delta. Maintenance of the crossing surface, roadbed, tracks, grade crossing warning devices, and appurtenances will be the responsibility of UPRR.

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

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

C. Conclusions On Findings Of Fact

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

18. The Commission will determine this matter on the record, without a formal hearing, under §40-6-109(5), C.R.S.(1993) and Rule 24, Commission Rules of Practice and Procedure, 4 CCR 723-1.

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

II. ORDER

A. The Commission Orders That:

1. The County of Delta, Colorado is authorized to install grade crossing warning devices consisting of flashing light signals with gates, bell, and constant warning devices at the crossing of J75 Drive across the tracks and right-of-way of the Union Pacific Railroad Company at railroad milepost 404.36, National Inventory I.D. No. 254-020N, near the Town of Paonia, in Delta County, Colorado.

2. The installation of the warning devices authorized in Ordering Paragraph 1 above shall be in accordance with the plans, specifications, and exhibits submitted in this application and hereby approved.

3. The installation, operation, and maintenance of the crossing warning devices shall comply with the Contract dated August 27, 2003, by and between the Colorado Department of Transportation, Delta County, Colorado, and the Union Pacific 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 Contract dated August 27, 2003, by and between the Colorado Department of Transportation, Delta County, Colorado, and the Union Pacific Railroad Company.

5. The Union Pacific Railroad Company shall maintain the warning devices at its own expense for the life of the crossing so protected.

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

7. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 17, 2003.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners