

Decision No. C14-1150

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0827R

IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION TO WIDEN EASTBOUND UNITED STATES HIGHWAY 50 UNDER THE EXISTING BRIDGE STRUCTURE THAT CARRIES THE TRACKS OF THE BNSF RAILWAY COMPANY TO DEVELOP AN EASTBOUND DEDICATED TURN LANE TO WILLS BOULEVARD IN PUEBLO, PUEBLO COUNTY, COLORADO.

**COMMISSION DECISION DEEMING APPLICATION
COMPLETE AND GRANTING APPLICATION**

Mailed Date: September 19, 2014
Adopted Date: September 17, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the Colorado Department of Transportation (CDOT) on August 7, 2014, seeking authority to widen eastbound United States Highway 50 (US 50) to provide a dedicated right turn lane to Wills Boulevard under the existing bridge structure of the BNSF Railway Company (BNSF) at railroad mile post 115.43 on the Pikes Peak Subdivision, National Inventory No. 003499R, in the City of Pueblo, County of Pueblo, State of Colorado.

2. Notice of the Application was provided by the Commission to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S., on August 11, 2014.

3. On September 9, 2014, Black Hills/Colorado Electric Utility Company, LP (Black Hills) filed a Motion to intervene in this matter. Black Hills is one of the utilities listed for which

facilities adjustments may be necessary for this work and is affected by the outcome of this proceeding. Black Hills does not object to the relief sought by the Application.

4. On September 20, 2014, BNSF filed an Entry of Appearance and Notice of Intervention. BNSF does not contest or oppose the Application.

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

6. Now being fully advised in the matter, we 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. CDOT proposes to widen the eastbound direction of US 50 under the existing bridge structure carrying the BNSF to provide a dedicated right turn lane to Wills Boulevard. CDOT will be able to make the proposed changes without impacting the existing bridge structure and without needing flagging services from BNSF. The revised minimum clearances meet or exceed the clearances required by Commission Rule 4 *Code of Colorado Regulations* (CCR) 723-7-7327 of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings.

9. The widened eastbound US 50 is proposed to carry three 12' lanes plus one 12' shoulder under the existing bridge structure plus a Type 7-CA guardrail adjacent to the shoulder.

10. CDOT states that the projected vehicle traffic under the bridge structure is currently 48,000 vehicles per day (VPD) with traffic volumes projected at 88,656 VPD by 2035 traveling at a posted speed limit of 45 miles per hour (MPH). CDOT states that there are

currently 35 freight train movements per day that use the existing crossing at a maximum timetable speed of 55 MPH with no estimates of growth for freight trains provided at this time.

11. CDOT proposes to start construction in the fall of 2014 and be complete by the summer of 2016. CDOT will be required to inform the Commission in writing that construction of the new grade separated structure is complete and operational within ten days of completion. The Commission will expect this letter by August 31, 2016. However, the Commission does understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule. The existing Construction and Maintenance Agreement from May 9, 1972 does not need to be updated and will continue to outline each entity's responsibilities.

12. CDOT estimates the cost of the entire project at \$11.3 million, for which federal and state funds will pay for all project costs.

C. Conclusions

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

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

15. 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 Commission's Rules of Practice and Procedure.

16. Based on the Findings of Fact, we find that good cause exists and that the requirements of public safety and necessity 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 Colorado Department of Transportation (CDOT) on August 7, 2014, seeking authority to widen eastbound United States Highway 50 (US 50) to provide a dedicated right turn lane to Wills Boulevard under the existing bridge structure of the BNSF Railway Company (BNSF) at railroad mile post 115.43 on the Pikes Peak Subdivision, National Inventory No. 003499R, in the City of Pueblo, County of Pueblo, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Intervention by Black Hills/Colorado Electric Utility Company, LP is granted.

3. The Intervention by BNSF is granted.

4. The Application is granted.

5. CDOT is authorized and ordered to proceed with widening the eastbound lanes of US 50 under the existing bridge structure with BNSF in Pueblo, Colorado.

6. CDOT shall inform the Commission in writing when the widening work is complete and operational within ten days of completion. The Commission will expect this letter by August 31, 2016.

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 day following the effective date of this Decision.

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
September 17, 2014.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners