

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0480R

IN THE MATTER OF THE APPLICATION OF THE CITY AND COUNTY OF BROOMFIELD FOR AUTHORITY TO UPGRADE APPROACH RAILROAD GATES WITH FLASHING LIGHTS, BELLS, INSTALL EXIT RAILROAD GATES TO COMPLETE A 4-QUADRANT GATE INSTALLATION, WITH CONSTANT WARNING TIME CIRCUITRY AND NEW RAILROAD SIGNAL CABIN, AT TRACKS OWNED BY BNSF RAILWAY COMPANY CROSSING BRAINARD DRIVE, USDOT NO. 929085A, IN CITY AND COUNTY OF BROOMFIELD, STATE OF COLORADO.

**COMMISSION DECISION GRANTING
MOTION FOR EXTENSION OF TIME**

Mailed Date: April 20, 2020

Adopted Date: April 8, 2020

I. BY THE COMMISSION

A. Statement

1. Through this Decision we grant the Second Motion for Extension of Time (Second Motion) filed by the City and County of Broomfield (Broomfield) on February 28, 2020, seeking an extension of time to June 27, 2020 to file the final design plans for this application for review and approval by the Commission.

B. Background, Findings, and Conclusions

2. Broomfield filed an application commencing this proceeding on September 3, 2019, seeking preliminary approval of design plans to install active warning devices including flashing lights, bells, four-quadrant gates, constant warning time circuitry, radar exit gate vehicle detection, and a new signal cabin at the crossing of Brainard Drive with the tracks of the BNSF Railway Company (BNSF) at railroad milepost 16.352 on the Front Range Subdivision, National Inventory No. 929085A, in Broomfield, Colorado. Broomfield represents it seeks this

change because it is pursuing a quiet zone at the crossing. BNSF filed a motion to intervene, but did not oppose the application.

3. As discussed in Decision No. C19-0843-I, issued October 17, 2019, the Commission granted the intervention filed by BNSF, and found that the requirements of public safety and necessity are met by approving Broomfield's preliminary plans. Within its decision, the Commission required Broomfield to file final plans by December 1, 2019, for Commission review and approval. Subsequently, through Decision No. C19-1011-I, issued December 17, 2019, the Commission granted Broomfield's requested extension of time to file the final plans through February 29, 2020.

4. As grounds for its Second Motion, Broomfield states that the design plans are still not finalized and BNSF has estimated it will provide the essential information to Broomfield by May 7, 2020. Broomfield requests an additional 120-day extension to June 27, 2020 to finalize the plans to file for Commission review and approval.

5. No responses were filed to the Second Motion.

6. Parties are reminded that ongoing delay and noncompliance with Commission orders can present public safety concerns relevant to the Commission's jurisdiction under § 40-4-106, C.R.S., and that pursuant to Rule 4 *Code of Colorado Regulations* 723-1-1302(b) of the Commission's Rules of Practice and Procedure and § 40-4-106(1)(b), C.R.S., the Commission may impose a civil penalty against a railroad company that fails to comply with a Commission order or rule directing compliance with railroad crossing safety regulations.

7. Reviewing the pleadings here, we are satisfied that there are no safety concerns at present. In addition, we note that Broomfield is continuing its efforts with BNSF to comply with the design plan filings required by Decision No. C19-0843-I, issued October 17, 2019. Further,

shortly after the filing of the Second Motion, on March 10, 2020, Colorado Governor Jared Polis declared a state of emergency over the novel coronavirus pandemic (COVID-19). We recognize that effective management of the challenges presented by COVID-19 given the timing of the filing additionally supports the requested extension to June 27, 2020, in these unique circumstances.¹

8. We therefore find good cause to grant the Second Motion and permit the requested extension.

II. ORDER

A. The Commission Orders That:

1. The Second Motion for Extension of Time filed by the City and County of Broomfield (Broomfield) on February 28, 2020 seeking an extension of time to June 27, 2020 to file the final design plans for this application for review and approval by the Commission is granted.

2. Broomfield shall provide the final design plans to the Commission for review by June 27, 2020.

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

4. This Decision is effective on its Mailed Date.

¹ In this instance, given the timing of the filing and Governor Polis' declaration of a state of emergency, we recognize this declaration on our own motion. Any future filings should specify whether COVID-19 considerations, or any other pertinent circumstances, support the requested action.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 8, 2020.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners