

Decision No. C23-0038

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0571R

IN THE MATTER OF THE APPLICATION OF BNSF RAILWAY COMPANY FOR EXPEDITED REVIEW SEEKING AUTHORITY TO REPLACE GATES AND BUNGALOW DESTROYED IN A MOTOR VEHICLE ACCIDENT AND TO UPGRADE THE TRACK CIRCUITRY FROM MOTION DETECTION TO CONSTANT WARNING TIME AT THE CROSSING AT MILEPOST 77.4 ON VINE STREET IN THE CITY OF FORT COLLINS, LARIMER COUNTY, COLORADO (DOT #244648E).

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

Mailed Date: January 26, 2023

Adopted Date: January 25, 2023

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the BNSF Railway Company (BNSF) on December 27, 2022, requesting authority to revise the track circuitry at the crossing of Vine Street, with the tracks of the BNSF at railroad milepost 77.4 of the Front Range Subdivision, National Inventory No. 244648E in the City of Fort Collins, County of Larimer, State of Colorado.

2. The Commission granted BNSF's Motion Requesting a Seven Day Shortened Notice period by Decision No. C23-0001-I mailed January 4, 2023 and gave notice of this Application (Notice) to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S. The Notice was mailed January 4, 2023.

3. No interventions were filed in this matter.

4. 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.

5. Now being fully advised in the matter, we grant the Application.

B. Findings of Fact

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

7. BNSF seeks authority to upgrade the train detection circuitry at the Vine Street crossing as part of the railroad signal bungalow replacement resulting from an accident that occurred on December 8, 2022.

8. As grounds, BNSF states that it wants to upgrade the existing detection circuitry from the existing motion detection circuitry to constant warning time circuitry which is the current American Railway Engineers and Maintenance of Way standard. Since BNSF has to replace the railroad signal bungalow, it wants to take advantage of the bungalow replacement to upgrade the circuitry. In addition to the crossing signal bungalow replacement, BNSF will replace the gates at the crossing that were damaged in the accident. No additional changes are proposed at the subject crossing other than the detection circuitry change, new bungalow, and gate replacement.

9. BNSF states there are currently six thru train movements per day using the crossing at a timetable speed of 25 miles per hour (MPH) with no projections for future growth at this time. According to the National Inventory Form, there were 1,100 vehicles per day (VPD)

using the crossing at a posted speed of 45 MPH with an estimated 5 percent heavy vehicles and no school buses using the crossing.

10. BNSF estimates the cost of the project at \$202,264 with the railroad providing for the full cost of the project. BNSF omits much of the information required by Rule 7204, Commission Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* (CCR) 723-7 including plan and profile drawings, and no changes to the roadways and signal equipment at the crossings will be made with the exception of the train detection circuitry. Given the limited nature of the changes proposed at the crossings, we will allow the omission of this information.

11. BNSF proposes starting the project as soon as the Commission approves the project and completing the project by the end of January 2023. 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 January 31, 2023. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule. We will also require BNSF to update the National Inventory Form for this crossing and file a copy of the updated crossing inventory forms in this proceeding by January 31, 2023.

C. Conclusions

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

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

14. 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.

15. We find that good cause exists and that the requirements of public safety 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 BNSF Railway Company (BNSF) on December 27, 2022, requesting authority to revise the track circuitry at the crossing of Vine Street with the tracks of the BNSF at railroad milepost 77.4 of the Front Range Subdivision, National Inventory No. 244648E in the City of Fort Collins, County of Larimer, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application is granted.

3. BNSF is authorized and ordered to upgrade the detection circuitry at the crossing of 1st Street in Windsor, Colorado as discussed above.

4. BNSF shall inform the Commission in writing when the detection circuitry changes are complete within ten days of completion. The Commission will expect the letter by January 31, 2023. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

5. BNSF is required to update the National Inventory Form for this crossing and file a copy of the updated crossing inventory forms in this proceeding by January 31, 2023.

6. 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.

7. The Commission retains jurisdiction to enter further decisions, as necessary.

8. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 25, 2023.**

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

JOHN GAVAN

MEGAN M. GILMAN

Commissioners

ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "G. Harris Adams".

G. Harris Adams.,
Interim Director