

Decision No. C23-0312

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0106R

IN THE MATTER OF THE CITY OF LONGMONT FOR AUTHORITY TO INSTALL CROSSING IMPROVEMENTS FOR THE PURPOSES OF IMPLEMENTING A QUIET ZONE AT THE 17TH AVENUE AND BNSF RAILWAY CROSSING (US DOT NO. 245009P).

COMMISSION DECISION GRANTING APPLICATION

Mailed Date: May 12, 2023
Adopted Date: May 3, 2023

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the City of Longmont (Longmont) on March 3, 2023, requesting authority to install active warning equipment consisting of flashing light signals with gates and bells, median flashing lights, new signal bungalow, constant warning time circuitry, new concrete crossing materials, pedestrian swing gates, additional signage, and truncated domes, at the crossing of 17th Avenue with the tracks of the BNSF Railway (BNSF) at railroad mile post 45.81 of the Front Range Subdivision, National Inventory No. 245009P, in Longmont, County of Boulder, State of Colorado.

2. The Commission 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 on March 13, 2023.

3. On April 12, 2023, BNSF filed an Entry of Appearance and Notice of Intervention in this matter. BNSF does not object or oppose the Application.

4. The Commission Application in this matter was automatically deemed complete within the meaning of § 40-6-109.5, C.R.S. by operation of rule on April 27, 2023.

5. The Commission has jurisdiction in this matter under §§ 40-4-106(2)(a) and (3)(a), 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. Longmont requests authority to install active warning equipment consisting of flashing light signals with gates and bells, median flashing lights, new signal bungalow, constant warning time circuitry, new concrete crossing materials, pedestrian swing gates, additional signage, truncated domes, and radar detection system for exit gates at the crossing of 3rd Avenue with the BNSF.

9. Longmont proposes to add additional signage as part of this application. Longmont will be prohibiting southbound left-turns from Atwood Street to 3rd Avenue by posting an R5-1 “Do Not Enter” sign and an R3-2 No Left Turn Symbol sign. Longmont proposes to post R8-10 “Stop Here When Flashing” signs at the painted stop bar locations showing drivers where to stop when the crossing signals are activated. Longmont will also post R8-8 “Do Not Stop On Tracks” signs close to the crossing. Longmont will also supplement the W10-1 signs with the W10-9P “No Train Horn” plaque.

10. Longmont is proposing to post R8-10A white regulatory “Stop Here When Flashing” signs with W10-9P yellow warning “No Train Horn” W10-9P signs on the same sign pole. This is against what is recommended by the Manual on Uniform Control Devices (MUTCD). The MUTCD encourages that only one sign should be posted on a pole. There are some exceptions, however posting a regulatory sign and a warning sign on the same post is not one of those exceptions. Because these requirements, Longmont will not be allowed to post the W10-9P “No Train Horn” plaques with the R8-10A “Stop Here When Flashing” signs as shown in the plans. We will also require Longmont to post two signs on each pedestrian gate; post a “Pull to Open” on the exterior of the pedestrian swing gate and a “Push to Open” on the interior of the pedestrian swing gate. These additional signs will provide pedestrians with instruction on using the swing gate. Pedestrians have to make a conscious decision to enter the crossing and must pull the gate toward them to enter into the crossing. For any pedestrian within the crossing when the crossing warning equipment activates, the signs tell the pedestrians to push the gate to walk through the gate and out of the crossing.

11. There have been two property damage only accidents at the crossing occurring in 19five accidents at the crossing including two injury accidents in 1978 and 1981.

12. Longmont CDOT states the current traffic volume using the crossing is approximately 18,550 vehicles per day (VPD) in 2020 at a posted speed limit of 35 miles per hour (MPH) with approximately 5 percent heavy vehicles using the crossing. School buses do not regularly use the crossing. Traffic is projected to grow to approximately 18,700 VPD by 2025 with no projection of traffic in 20-years. There are currently approximately eight through train movements per day using the crossing at speeds of up to 20 MPH with no current projections of future train traffic growth.

13. The estimated cost for the work at the crossing is \$565,437 including the civil engineering work, the crossing surface replacement and the railroad signal cost. Longmont states they received Federal Railroad Administration (FRA) Consolidated Rail Infrastructure and Safety Improvements (CRISI) grant for \$4,000,000 for design and construction of the project. Longmont is required to provide a grant match of a minimum of 50 percent. The Application states that Longmont will pay for the civil engineering work and 50 percent of the crossing signal equipment and surface improvements (using CRISI grant and Longmont transportation funds), and BNSF will pay for the other 50 percent of the crossing signal and surface improvements.

14. Longmont estimates starting construction in spring 2023, with the start date dependent on the PUC's Application approval, and the bid/advertisement/award and selected contractor's schedule with construction completed in the fall of 2023. We will expect Longmont to file the signed construction and maintenance agreement to be filed no later than June 30, 2023, prior to the start of construction. We will also require Longmont to inform the Commission in writing that the crossing work is complete and operational within ten days of completion. The Commission will expect this letter by September 30, 2023. 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.

15. We will require BNSF to update their parts of the crossing inventory form for this crossing and file a copy of the updated crossing inventory form in this proceeding. The Commission will expect this information to be filed with the completion of the crossing work by September 30, 2023.

C. Conclusions

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

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

18. Because the Application is unopposed, the Commission will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 1403, Commission Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

19. Based on the Findings of Fact, we find 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 City of Longmont (Longmont) on March 3, 2023, requesting authority to install active warning equipment consisting of four-quadrant flashing light signals with gates and bells, overhead cantilever flashing lights, new signal bungalow, constant warning time circuitry, new concrete crossing materials, pedestrian swing gates, additional signage, truncated domes, and radar detection system for exit gates at the crossing of 3rd Avenue with the tracks of the BNSF Railway (BNSF) at railroad mile post 44.06 of the Front Range Subdivision, National Inventory No. 244848N, in Longmont, County of Boulder, State of Colorado was deemed complete by operation of rule on April 27, 2023.

2. The intervention by BNSF is granted.

3. The Application is granted.
4. Longmont is authorized and ordered to proceed with installation of active warning equipment consisting of four-quadrant flashing lights with gates and bells, new signal cabinet, constant warning time circuitry, new concrete crossing material, pedestrian swing gates, additional signage, truncated domes, and a radar detection system for the exit gates at the crossing of 3rd Avenue in Longmont, Colorado.
5. Longmont shall not post the W10-9P “No Train Horn” plaques on the signs with the R8-10A regulatory “Stop Here When Flashing” R8-10A at the pedestrian swing gates.
6. Longmont shall post “Pull to Open” on the exterior and “Push to Open” on the interior of the pedestrian gates.
7. Longmont shall file a copy of the signed Construction and Maintenance Agreement for this project by June 30, 2023, prior to starting work at the crossing.
8. Longmont shall inform the Commission in writing that the crossing changes are complete and operational within ten days of completion. We shall expect this letter by September 30, 2023. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.
9. BNSF shall be required to update the National Inventory Form for this crossing and file a copy of the updated crossing inventory form in this proceeding by September 30, 2023.
10. 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.

11. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 3, 2023.**

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

ATTEST: A TRUE COPY

Commissioners

A handwritten signature in cursive script that reads 'Rebecca E. White'.

Rebecca E. White,
Director