

Decision No. C23-0560-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0353R

IN THE MATTER OF THE APPLICATION OF THE CITY OF LONGMONT, COLORADO, 80501 FOR AUTHORITY TO CONSTRUCT A NEW AT-GRADE CROSSING OF THE BURLINGTON NORTHERN SANTA FE TRACKS ON THE PROPOSED BOSTON AVENUE EXTENSION AND FOR AUTHORITY TO CLOSE THE EXISTING CROSSINGS OF THE BURLINGTON NORTHERN SANTA FE TRACKS AT FIFTH AVENUE AND TERRY STREET IN LONGMONT, COLORADO.

**INTERIM COMMISSION DECISION DEEMING
APPLICATION COMPLETE AND REFERRING MATTER
TO AN ADMINISTRATIVE LAW JUDGE**

Mailed Date: August 31, 2023

Adopted Date: August 23, 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 June 27, 2023, requesting authority to open a new highway-rail grade crossing at the extension of Boston Avenue with the tracks of the BNSF Railway Company (BNSF) at railroad milepost 43.4 of the Front Range Subdivision, no existing National Inventory Number, in Longmont, County of Boulder, State of Colorado and to close the existing crossings of 5th Avenue at railroad milepost 44.289, National Inventory No. 245003Y and Terry Street at railroad milepost 43.430, National Inventory No. 244846A in Longmont, State of Colorado. Longmont filed testimony and exhibits with the Application.

2. On July 7, 2023, Staff of the Commission sent a Deficiency Letter to Longmont regarding required information that was omitted from the Application that was necessary to the Application.

3. 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 July 12, 2023.

4. On July 12, 2023, Longmont filed the Affidavit of Crossing Closure and the photos showing notice has been placed at the crossings.

5. On July 19, 2023, BNSF filed an Intervention which opposes and contests the Application. BNSF states that safety is not promoted by the addition of the proposed new crossing, that the average daily traffic volumes for the crossings proposed for closure do not equal the proposed new crossing traffic volumes. BNSF wants to preserve BNSF's right to comment on specific aspects of the proposed design and request appropriate revisions prior to providing a sketch and cost estimate (which has yet to be provided) and to raise appropriate objections before final approval by the Commission to the extent that any proposed design issues cannot be resolved during the review and comment process.

6. On July 25, 2023, Longmont filed additional information to address the deficiencies of the Application.

7. The Commission reviewed the Application and deems the Application complete within the meaning of § 40-6-109.5, C.R.S.

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

9. Now being fully advised in the matter, we refer the Application to an Administrative Law Judge for disposition of the intervention and determination of the merits of the Application, and to obtain additional information regarding the missing information from the original Application.

II. ORDER

A. It Is Ordered That:

1. The application (Application) filed by the City of Longmont (Longmont) on June 27, 2023, requesting authority to open a new highway-rail grade crossing at the extension of Boston Avenue with the tracks of the BNSF Railway Company (BNSF) at railroad milepost 43.4 of the Front Range Subdivision, no existing National Inventory Number, in Longmont, County of Boulder, State of Colorado and to close the existing crossings of 5th Avenue at railroad milepost 44.289, National Inventory No. 245003Y and Terry Street at railroad milepost 43.430, National Inventory No. 244846A in Longmont, State of Colorado. Longmont filed testimony and exhibits with the Application is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. Proceeding No. 23A-0353R is referred to an Administrative Law Judge of the Colorado Public Utilities Commission for disposition of the intervention and determination of the merits of the Application and to obtain additional information regarding the missing information from the original Application.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 23, 2023.**

(SEAL)



ATTEST: A TRUE COPY

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

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners