

Decision No. C23-0819

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0487R

IN THE MATTER OF THE APPLICATION OF TOWN OF TIMNATH FOR AUTHORITY TO MODIFY AN EXISTING PRIVATE AT-GRADE CROSSING TO A PUBLIC AT-GRADE CROSSING FOR TIMNATH PARKWAY ACROSS THE GREAT WESTERN RAILROAD, CROSSING #094490D, IN THE TOWN OF TIMNATH, LARIMER COUNTY, STATE OF COLORADO.).

COMMISSION DECISION GRANTING APPLICATION

Mailed Date: December 8, 2023

Adopted Date: December 6, 2023

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the Town of Timnath (Timnath) on September 28, 2023, requesting to move an existing private at-grade crossing to a public at-grade crossing for the new Timnath Parkway including vehicle lanes, bike lanes, and sidewalks; and installation of active warning consisting of flashing lights, gates, bells, new signal bungalow, and constant warning time detection circuitry at the crossing of Timnath Parkway with the tracks of the Great Western Railroad (GWR), no existing National Inventory No. in Timnath, County of Larimer, 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 October 17, 2023.

3. On October 6, 2023, Staff of the Commission sent a Deficiency Letter to Timnath outlining items missing from the Application including adjacent property owners to the crossing.

4. On October 12, 2023, Timnath responded to the deficiencies by providing additional addresses to send notice to, clarifying the Application is for final application as opposed to a preliminary application, and providing final signed and stamped plans.

5. No interventions were filed in this matter.

6. The Commission has reviewed the record in this matter and deemed that the Application was complete within the meaning of § 40-6-109.5, C.R.S. on December 1, 2023 by operation of rule.

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

B. Findings of Fact

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

9. Timnath is requesting authority to move an existing private crossing from its current location to a point northwest of its existing location to change that crossing from a private crossing to a public crossing, to install flashing lights with gates, bells, and constant warning time circuitry, and adding bike lanes, a parkway, and sidewalk to the proposed roadway cross section. Exhibit D is a letter from Catellus Development Corporation, the current owner of the private crossing supporting the closure of the private crossing and moving the crossing to the new public crossing location at Timnath Parkway.

10. As grounds, Timnath states that development in the area requires a by-pass of Main Street through Old Town Timnath to better accommodate growing traffic volumes. The crossing has also been designed for vehicles to cross at a right angle to the tracks than the skewed crossing

of Main Street. Finally, Timnath will be seeking a quiet-zone designation in the future that will include this crossing, the crossing has been designed to meet those requirements.

11. Timnath states that there two train movements per day through the crossing six to seven days per week. Trains operate through the crossing at a maximum timetable speed of 10 miles per hour (MPH). There are no current traffic volumes at the crossing because the crossing does not yet exist. Timnath estimates that traffic will be 5,270 vehicles per day (VPD) in five years and 16,300 VPD in 20 years. It is estimated that school buses will use the crossing once open.

12. There have been no accidents at the crossing since this is a new crossing.

13. Timnath estimates the cost of the project to include \$395,836 for signal work, \$273,266 for the new crossing surface, and \$399,503 for the road states the estimate for replacing the existing active warning equipment is \$347,847 with Timnath funding 100 percent of the costs from town general funds.

14. Timnath proposes starting construction early 2024 and be complete by December 2024 dependent on delivery of materials and finalization of the Construction and Maintenance agreement. We will require Timnath to inform the Commission in writing that the project has been completed by December 31, 2024, although we understand this completion date may be earlier or later based on weather and construction schedule.

15. Timnath will also be required to file a signed copy of the Construction and Maintenance Agreement by March 31, 2024.

16. GWR will be required to provide a new U.S. DOT National Inventory No. for the new crossing, Timnath and GWR will be required to provide all of the information for the form by the end of the project on December 31, 2024.

C. Conclusions

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

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

19. 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 *Code of Colorado Regulations* 723-1 of the Rules of Practice and Procedure.

20. We find that good cause exists and that the requirements of public safety are met by granting the Application, as amended, consistent with the above discussion.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the Town of Timnath (Timnath) on September 28, 2023, requesting to move an existing private at-grade crossing to a public at-grade crossing for the new Timnath Parkway including vehicle lanes, bike lanes, and sidewalks; installation of active warning consisting of flashing lights, gates, bells, new signal bungalow, and constant warning time detection circuitry at the crossing of Timnath Parkway with the tracks of the Great Western Railroad (GWR), no existing National Inventory No. in Timnath, County of Larimer, State of Colorado was deemed complete within the meaning of § 40-6-109.5, C.R.S. by operation of rule.

2. The Application is granted.

3. Timnath is authorized and ordered to move the private at-grade crossing to the new Timnath Parkway location and to make that crossing public, and to construct a new crossing with

active warning equipment including flashing lights, gates, bells, new signal bungalow, and constant warning time detection circuitry at the new crossing of Timnath Parkway in Timnath, Colorado.

4. Timnath shall inform the Commission in writing when the project is complete within ten days of completion. The Commission will expect the letter by December 31, 2024. 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. GWR shall assign a new U.S. DOT No. to the new crossing and GWR and Timnath shall each provide information for the new inventory form, and shall file a copy of the form by the end of this project by December 31, 2024.

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
December 6, 2023.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

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Commissioners