

Decision No. C23-0840

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0592R

IN THE MATTER OF THE APPLICATION OF BNSF RAILWAY COMPANY TO REPLACE THE BRIDGE CROSSING OVER INTERSTATE 25 AT MILEPOST 109.600 IN THE CITY AND COUNTY OF PUEBLO, COLORADO (DOT#003501P).

**COMMISSION DECISION DEEMING APPLICATION
COMPLETE, GRANTING APPLICATION,
AND WAIVING RESPONSE TIME**

Mailed Date: December 15, 2023
Adopted Date: December 13, 2023

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of a Motion for Expedited Review and Approval of Application (Motion) filed by BNSF railway Company (BNSF) on December 5, 2023 requesting an expedited review and approval of the Application to replace the section of bridge destroyed during a derailment that occurred on October 17, 2023, National Inventory No. 003501P located in the County of Pueblo, State of Colorado.

2. BNSF requests the Commission exercise its discretion to reduce the response time to this motion and shorten notice to no more than seven days to expedite the review and approval process. BNSF requests this expedited notice and approval to allow them to perform proposed repairs as soon as possible in December 2023. Work is currently anticipated to begin December 17, 2023.

3. BNSF has been in contact with the Colorado Department of Transportation (CDOT) and Staff regarding this proposed project and is not aware of any potential opposition to the relief requested in the Application.

4. On December 12, 2023, CDOT filed an Entry of Appearance and notice of Intervention. CDOT does not contest or oppose the Application.

5. On December 13, 2023, the Colorado Department of Transportation issued a press release informing the public that I-25 would be closed in both directions from December 17-19, 2023 to allow for the placement of the bridge structure.

6. To help our sister agency to not have to reschedule the closure of I-25 scheduled to occur from December 17-19, 2023, we will review the Application today for completeness and approval.

7. The Commission has reviewed the record in this matter 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 grant the Application and waive the notice of the Application on our own motion.

B. Findings of Fact

10. The Commission waived notice to interested parties given that CDOT, the road authority in this matter, would likely be the only intervenor in this manner. CDOT neither contested or opposed the Application.

11. On October 17, 2023, a BNSF unit coal train derailed just east of the bridge structure located at approximate railroad milepost 109.60 causing the eastern half of the bridge structure to collapse onto I-25 below.

12. With this Application, BNSF seeks authority to replace the bridge structure that was damaged in the derailment.

13. BNSF proposes to replace the bridge over Northbound I-25 is proposed as a single span with a length of 89'-6". The structure has a minimum vertical clearance of 16' with no minimum horizontal clearance shown, but space under the span to accommodate 2 12" lanes with shoulders. The structure is 33'-8 1/2" out to out and accommodates a single track. The proposed minimum clearances meet or exceed the clearances required by Commission Rules 4 *Code of Colorado Regulations (CCR) 723-7-7327* of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings.

14. There are currently 12 trains per day that use the crossing at a maximum timetable speed of 55 MPH with no anticipated increases or decreases in the number or character of trains at this time. There are currently 44,000 Vehicles Per Day (VPD) that use I-25 at a posted speed limit of 75 MPH.

15. There was one fatal accident that occurred as a result of the derailment and bridge collapse.

16. BNSF estimates the cost of the project at \$5,800,000 with \$2,875,000 for contractors, \$2,000,000 for materials and \$100,000 for BNSF labor costs. BNSF will pay for 100 percent of the cost of the bridge replacement.

17. The bridge structure is scheduled for repairs December 17-19, 2023 with a full shut-down of I-25 in both directions during the replacement. 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 December 20, 2023. We will also require BNSF to file a copy of the signed master agreement task order by December 31, 2023.

C. Conclusions

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

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

20. 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.

21. 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 Motion for Expedited Review and Approval of Application (Motion) filed by BNSF railway Company (BNSF) on December 5, 2023 requesting an expedited review and approval of the Application to replace the section of bridge destroyed during a derailment which occurred on October 17, 2023, National Inventory No. 003501P located in the County of Pueblo, in the State of Colorado, is denied as moot.

2. The Application filed by BNSF on December 5, 2023 requesting authority to replace the section of bridge destroyed during a derailment that occurred on October 17, 2023, is granted.

3. BNSF is authorized and ordered to proceed with the replacement of the bridge structure just north of Pueblo.

4. BNSF shall inform the Commission in writing when the bridge replacement is complete and operational within ten days of completion. The Commission will expect this letter by December 29, 2023.

5. We will also require BNSF to file a copy of the signed master agreement task order by December 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 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 13, 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

TOM PLANT

Commissioners