

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0598R

IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION, FOR AUTHORITY TO REPLACE EXISTING TRAFFIC SIGNAL INTERCONNECTION WITH NEW TRAFFIC SIGNAL INTERCONNECTION TO EXISTING RAILROAD ACTIVE WARNING SIGNAL BUNGALOW AT THE COLORADO STATE HIGHWAY 119-63RD STREET INTERSECTION CONNECTION TO THE 63RD STREET (DOT# 244-827V) CROSSING OF TRACKS OWNED BY BNSF RAILWAY, IN BOULDER COUNTY, STATE OF COLORADO.

**INTERIM DECISION
GRANTING JOINT STIPULATION AND CONVERTING
EVIDENTIARY HEARING TO A PREHEARING
CONFERENCE**

Issued Date: July 12, 2024

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On December 8, 2023, the Colorado Department of Transportation (“CDOT”) filed the above-captioned application (“Application”) requesting authority to replace an existing traffic signal interconnection from the traffic signal at Colorado State Highway 119 (“SH 119”) and 63rd Street with the tracks of the BNSF Railway (“BNSF”) at railroad milepost 35.29 of the Front Range Subdivision, National Inventory No. 244827V near the Town of Niwot, County of Boulder, in the State of Colorado.

2. Notice of the Application was provided by the Commission to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S., on December 13, 2023.

3. On December 29, 2023, BNSF filed a Notice of Intervention contesting and opposing the Application. BNSF stated that devices recommended by the safety diagnostic term were omitted from the Application.

4. By Decision No. R24-0287-I, issued April 30, 2024, a procedural schedule was adopted and a hybrid evidentiary hearing was scheduled for July 18, 2024.

5. On July 11, 2024, a Joint Stipulation Regarding Hearing (“Stipulation”) was filed by both CDOT and BNSF. The Stipulation states that the parties are continuing to engage in discussions to narrow the issues for determination in this proceeding and to reach an agreement regarding a safe and feasible project design that can be put into service. The next meeting scheduled to discuss these items is scheduled for July 16, 2024.

6. The parties state that they cannot identify with certainty what issues will remain, if any, after the scheduled July 16, 2024 meeting, which will occur only two days before the hearing. As a result, the parties state they cannot identify with certainty the witnesses or exhibits that will be necessary to address the yet unknown issues for determination at the hearing. Finally, the parties also anticipate that an amendment to the Application will be required after the July 16, 2024 meeting, because discussions have resulted in changes to the information supporting the design plans submitted with the Application.

7. As a result, the parties request that the hybrid evidentiary hearing scheduled for July 18, 2024, be converted to a remote status conference at which the parties can inform the Commission of the status of the discussions and whether a hearing will be necessary.

8. Based upon good cause shown for the unopposed request, response time will be waived and the request granted.

9. The hybrid evidentiary hearing for July 18, 2024, will be vacated and rescheduled as a remote prehearing conference, as ordered below.

II. ORDER

A. It Is Ordered That:

1. Response time to the Joint Stipulation Regarding Hearing filed on July 11, 2024, is waived and the request is granted.

2. The hybrid evidentiary hearing scheduled for July 18, 2024, is vacated.

3. A prehearing conference in this proceeding is scheduled as follows:

DATE: July 18, 2024

TIME: 9:00 a.m.

WEBCAST: Commission Hearing Room

METHOD: Join by video conference using Zoom at the link to be provided in an email from Commission Administrative Staff.¹

4. Nobody should appear in-person for the remote prehearing conference.

5. Attachment A to this Decision provides the information addressing how to use the Zoom platform for remotely participating in the remote prehearing conference hearing. The parties must review Attachment A to this Decision in preparation for the remote prehearing conference.

¹ Additional information about the Zoom platform and how to use the platform are available at: <http://zoom.us/>. All are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <http://zoom.us/test>.

6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director