

Decision No. C25-0107

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0569R

IN THE MATTER OF THE APPLICATION OF UNION PACIFIC RAILROAD COMPANY FOR AUTHORITY TO UPGRADE CROSSING CIRCUITRY AT THE CROSSING OF UNION PACIFIC RAILROAD COMPANY'S TRACKS ON THE LIMON SUBDIVISION LOCATED AT M.P. 619.28, U.S. DOT #805509K, LOCATED IN THE TOWN OF WATKINS, COUNTY OF ADAMS, STATE OF COLORADO.

**COMMISSION DECISION DISMISSING APPLICATION
WITHOUT PREJUDICE**

Issued Date: February 18, 2025

Adopted Date: February 12, 2025

I. BY THE COMMISSION

A. Statement

1. On December 23, 2024, Union Pacific Railroad Company (“UPRR” or the “Applicant”) filed an Application for an order authorizing the replacement of the existing motion detection circuit with a constant warning time circuit for the crossing of Hudson Road with the tracks owned by UPRR, at railroad milepost 619.28, National Inventory No. 805509K, in the Town of Watkins, Adams County, State of Colorado.

2. The Applicant filed its application pursuant to 4 *Code of Colorado Regulations* (“CCR”) 723-7- 7002(b)(I-IX), 4 CCR 723-7-7204(a)(I), 4 CCR 723-7-7204(a)(II), and 4 CCR 723-7-7204(X).

3. The 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 January 3, 2025.

4. On December 27, 2024, Staff of the Commission sent a Deficiency Letter to UPRR outlining missing information from the Application.

5. In particular, the Applicant did not include pursuant to 4 CCR 723-7-7204 (a)(I)(A)(ii), the contact person name, mailing address and email address to whom the Commission notice is to be sent: for each road authority that owns the roadway affected by the application. It is necessary for an applicant to include this information so that the Commission can ensure interested road authorities are notified of the filing of the Application.

6. Further, the Applicant did not include pursuant to 4 CCR 723-7- 7204(a)(I)(E), a statement of the date that the required crossing safety diagnostic occurred, or a copy of written correspondence from Commission staff that a crossing safety diagnostic was not required. It is necessary for an applicant to include this information so that the Commission can ensure the need for a safety diagnostic has been assessed and completed if necessary.

7. Separately, the Applicant did not include pursuant to 4 CCR 723-7-7204(a)(X)(D), the correct schematic diagram of the crossing warning devices (commonly referred to as the “front sheet” or the “state sketch”) and shall specifically identify the equipment response time, advanced preemption time, minimum warning time, clearance time, buffer time, and total warning time”. It is necessary for an applicant to include this information so that the Commission can ensure that adequate warning time is provided to motorists using the crossing. UPRR included a front sheet for a different crossing than the crossing that is referenced in the Application.

8. On January 10, 2024, UPRR filed a supplement to the Application that provided the road authority contact person information and written correspondence from Commission staff that a crossing safety diagnostic was not required.

9. On January 10, 2024, Commission Staff requested UPRR to provide the correct front sheet. UPRR failed to provide the correct front sheet. Because requested correspondence with Commission staff did not occur, the Commission cannot rule on the Application without further information that is provided in the front sheet.

10. Due to the foregoing, we deem the application incomplete and dismiss the application without prejudice pursuant to Commission Rule 4 CCR 723-1-1303(c), which allows the Commission to consider whether more information is necessary before deeming the application complete. Here, the application was not supplemented with the information required by Commission Rule 4 CCR 723-7-7204(a)(X)(D).

11. In this instance, because the missing information required pursuant to Commission Rule 4 CCR 723-7-7204(a)(X)(D) was not provided by a supplementation, we find it necessary to deem this application incomplete and dismiss it without prejudice.

II. ORDER

A. The Commission Orders That:

1. The Application (“Application”) of Union Pacific Railroad Company (“UPRR”) is deemed incomplete, within the meaning of § 40-6-108(2), C.R.S., and Rule 1303(c)(III) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, and is dismissed without prejudice.

2. The 20-day period provided for in § 40-6-114, C.R.S., within which to file an Application for Rehearing, Reargument, or Reconsideration, begins on the first day following the effective date of this Decision.

3. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 12, 2025.**

(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