

Decision No. C03-0038

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 97A-607R

IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION, FOR THE AUTHORITY TO REMOVE AND REPLACE AN EXISTING SEPARATION STRUCTURE CARRYING STATE HIGHWAY 138 OVER THE UNION PACIFIC RAILROAD COMPANY TRACKS, AT RAILROAD REFERENCE POINT 368.13 WEST OF JULESBURG, IN SEDGWICK COUNTY, COLORADO, AND ALLOCATION OF COSTS BASED ON PUC RULES.

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: January 10, 2003

Adopted Date: January 8, 2003

I. BY THE COMMISSION

A. Statement

1. On December 17, 1997, the Colorado Department of Transportation (CDOT), filed this application requesting authority to remove and replace the existing grade separation structure (No. A-27-O) that carries State Highway 138 (SH 138) over the tracks of the Union Pacific Railroad Company (UPRR) at railroad milepost 368.13, National Crossing Inventory ID No. 805-400U, west of Julesburg, in Sedgwick County, Colorado.

2. On December 30, 1997, the Staff of the Commission filed its Entry of Appearance and Notice of Intervention.

3. The Commission gave notice of this application together with a copy of the application, to all interested parties, including adjacent property owners in accordance with § 40-6-108(2), C.R.S. The Notice was mailed December 30, 1997.

4. On January 12, 1998, the UPRR filed its Entry of Appearance and Notice of Intervention.

5. No protests, objections, or petitions to intervene in opposition were filed in this application. This application is noncontested and unopposed.

6. Received by the Commission as a late-filed exhibit on April 8, 1999, is a copy of the fully executed Contract dated April 5, 1999, by and between CDOT and UPRR, providing for construction, operation, maintenance of the highway/railroad grade separation structure of SH 138 over the tracks of UPRR.

7. Received by the Commission as a late-filed exhibit on August 6, 1999, is a copy of the fully executed Contract Amendment #1, dated July 6, 1999, by and between CDOT and UPRR, providing for modification to the original Contract dated April 5, 1999, by and between CDOT and UPRR.

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

9. CDOT has waived the time limits set forth in § 40-6-109.5, Section (1) and (2), C.R.S. for this application.

10. The Commission has reviewed the record in this matter and deems that the application is now complete within the meaning of § 40-6-109.5, C.R.S.

11. The Commission will determine this matter upon the record, without a formal oral hearing under § 40-6-109(5), C.R.S., and Commission Rule of Practice and Procedure No. 24, 4 CCR 723-1, because the application is noncontested.

B. FINDINGS OF FACT

12. Notice of the proposed removal and replacement of the grade separation structure has been given by the Commission to all interested parties, including adjacent property owners. No intervenor who filed a petition to intervene or other pleading contested or opposed the application.

13. CDOT proposes to replace the existing grade separation structure (No. A-27-O) with a new wider structure (No. A-27-P) to carry SH 138 over the UPRR at railroad milepost 368.13, National Crossing Inventory ID No. 805-400U, west of Julesburg, in Sedgwick County, Colorado.

14. The new SH 138 bridge structure (No. A-27-P) will be a three span structure 80.60 meters long that provides for two (2) through travel lanes with shoulders.

15. Average daily traffic (ADT) on SH 138 at the project area was approximately 1,200 vehicles per day in 1998. ADT is projected to be 1,560 in 2018. Total train movements through the project area is approximately 67 per day.

16. This project is being funded by CDOT and UPRR in accordance the terms of the Contract dated April 5, 1999, by and between CDOT and UPRR and Commission Rule No. 4 CCR 723-20. The estimated cost of the theoretical structure as defined in Commission Rule No. 4 CCR 723-20 is \$2,518,190. UPRR has requested and CDOT has agreed to increase the length of the bridge by 14.6 meters to accommodate future railroad expansion at an additional cost of \$270,675. CDOT

and UPRR have agreed that the UPRR should pay 25% of the estimated cost of the theoretical structure and 25% of the additional structure length as a total lump sum payment of \$697,216.

17. Maintenance of the new grade separation structures will be the responsibility of the CDOT and UPRR in accordance with the Contract by and between the CDOT and UPRR, dated April 5, 1999. Under the terms of this Contract, UPRR will continue to maintain its roadbed, tracks, and appurtenances underneath the bridge structures and CDOT will maintain the structures including the embankment, piers, slope paving, abutments, substructure, and superstructure.

18. All exhibits, specifications and plans are complete, accurate and meet Commission requirements.

19. The public safety, convenience and necessity requires, and will be served, by the granting of this application as hereinafter ordered.

C. CONCLUSIONS ON FINDINGS OF FACT

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

21. No intervenor who filed a petition to intervene or other pleading contested or opposed the application. The application is noncontested and unopposed.

22. The Commission will determine this matter on the record, without a formal hearing under § 40-6-109(5), C.R.S., and Commission Rule of Practice and Procedure No. 24, 4 CCR 723-1.

23. The public safety, convenience and necessity requires, and will be served by the granting of this application.

II. ORDER

A. THE COMMISSION ORDERS THAT:

1. The Colorado Department of Transportation is authorized to remove and replace the existing grade separation structure (No. A-27-O) with grade separation structure (A-27-P) to carry State Highway 138 over the tracks of the Union Pacific Railroad Company at railroad milepost 368.13, National Crossing Inventory ID No. 805-400U, west of Julesburg, in Sedgwick County, Colorado.

2. All work done shall be in accordance with the plans, specifications and exhibits submitted in this application and hereby approved.

3. The total actual cost of labor and material required for the highway/railroad grade separation structure authorized in ordering paragraph No. 1 above, shall be paid in accordance with the Contract, as amended, between the Colorado Department of Transportation and the Union Pacific Railroad Company dated April 5, 1999.

4. Maintenance of the completed grade-separation structures shall be in accordance with the Contract, as amended, dated April 5, 1999, between the Colorado Department of Transportation and the Union Pacific Railroad Company.

5. The Commission retains jurisdiction to make further orders as required in this matter.

6. This Order is effective on the date that it is mailed.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
JANUARY 8, 2003**

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RAYMOND L. GIFFORD

POLLY PAGE

JIM DYER

Commissioners

ATTEST: A TRUE COPY

Bruce N. Smith
Director