

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-062R

IN THE MATTER OF THE APPLICATION OF PROLOGIS, INC., FOR AUTHORITY TO CONSTRUCT TWO STANDARD RAILROAD CROSSINGS, AND TO INSTALL STANDARD ADVANCED WARNING SIGNS AT SAID CROSSINGS ON AND ACROSS SMITH ROAD AND PROPOSED "ROAD A," BOTH EAST OF E-470 IN ADAMS COUNTY, STATE OF COLORADO.

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: May 23, 2003
Adopted Date: May 21, 2003

I. BY THE COMMISSION:

A. Statement

1. On February 14, 2003, ProLogis, Inc., a Maryland real estate trust, (ProLogis) filed this application requesting authority to construct two at grade railroad highway crossings and for authority to install warning signs at those grade crossings, both located in the City of Aurora, Adams County, Colorado.

2. The Commission issued "Notice of Application Filed and Notice of Hearing" of this application together with a copy of the application to all interested parties, including the adjacent property owners, in accordance with § 40-6-108(2), C.R.S. (1993). This Notice was mailed February 20, 2003.

3. On February 20, 2003, the Staff of the Commission filed its Entry of Appearance and Notice of Intervention.

4. On March 24, 2003, the Union Pacific Railroad Company (UPRR) filed its Entry of Appearance and Notice of Intervention.

5. No intervention was received in opposition to this application. The application is noncontested and unopposed.

6. On March 28, 2003, the Applicant filed an Uncontested Motion to Vacate the Hearing, Waive the Response Time and Set the Application Pursuant to Rule 24, 4 CCR 723-1. By Decision No. R03-0326-I dated April 1, 2003, said motion was granted.

7. 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.

8. The Commission will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 24, Commission Rule of Practice and Procedure, 4 CCR 723-1.

B. Findings of Fact

9. ProLogis is purchasing property located in Aurora, Colorado at the southeast corner of E-470 and Smith Road. ProLogis will develop the property as a rail served industrial park. Smith Road is located along the northerly side of the property. The east-west mainline tracks of the UPRR are located on UPRR right-of-way contiguous with Smith Road. ProLogis proposes to construct and own a single rail spur from the UPRR mainline southerly into the industrial property.

10. The purpose of this application is to secure Commission approval to construct two at grade rail-highway crossings. The first crossing will be constructed over Smith Road and onto

the property; the second will be constructed over a proposed new road within the property designated as Road A. The industrial spur trackage will initially provide rail service to a new General Motors Corporation parts warehouse distribution facility to be located within this industrial park.

11. ProLogis will develop the industrial park in two phases. Phase I construction plans include building the proposed railroad spur line and construction of Smith Road as a two lane paved roadway. Phase II will begin after completion of Phase I and will include construction of Road A. ProLogis proposes to install passive warning devices consisting of crossbuck warning signs and railroad advance warning signs at the Smith Road and Road A grade crossings.

12. Funding for the construction of the spur track, the proposed grade crossings, and the passive warning devices will be paid for by ProLogis.

13. Maintenance of the crossing surface, roadbed, tracks, and grade crossing passive warning devices will be the responsibility of ProLogis, Inc.

14. The posted speed limit on Smith Road is 40 mph. The projected rail movements over the crossings will be two train movements per day, five days a week, consisting of four standard boxcars. Standard railroad operating rules will govern train movement over the crossings.

15. All exhibits, specifications, and plans, as revised, are complete, accurate, and meet Commission requirements.

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

C. Conclusions on Findings Of Fact

17. The Commission has jurisdiction in this matter under § 40-4-106(2)(a) and (3)(a), C.R.S. (1993).

18. No intervention was received in opposition to this application. The application is noncontested and unopposed.

19. The Commission will determine this matter on the record, without a formal hearing, under § 40-6-109(5), C.R.S. (1993), and Rule 24, Commission Rules of Practice and Procedure, 4 CCR 723-1.

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

II. ORDER:

A. The Commission Orders That:

1. ProLogis, Inc., is authorized to construct railroad highway grade crossings of an industrial railroad spur track across Smith Road and Road A, and to install passive warning devices consisting of crossbuck warning signs and railroad advance warning signs at said grade crossings, located in the City of Aurora, Adams County, Colorado.

2. The construction authorized in Ordering Paragraph 1 above shall be in accordance with the plans, specifications, and exhibits submitted in this application and hereby approved.

3. The installation, operation, and maintenance of the grade crossings and grade crossing warning devices shall be the responsibility of ProLogis, Inc.

4. The Commission retains jurisdiction to enter further required orders.

5. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 21, 2003**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners