

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-101R

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF DELTA, COLORADO,
FOR AN ORDER AUTHORIZING THE INSTALLATION OF A RAILROAD CROSSING
PROTECTION DEVICE TO BE CONSTRUCTED ON THE RIGHT-OF-WAY OF THE
UNION PACIFIC RAILROAD COMPANY AND THE DELTA COUNTY ROAD 4110 DRIVE
(US DOT-AAA GRADE CORSSING ID NO. 254066C AT UPRR MILEPOST 0406.83),
PAONIA COLORADO.

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: June 13, 2003

Adopted Date: June 11, 2003

I. BY THE COMMISSION

A. Statement

1. On March 11, 2003, the County of Delta, State of Colorado (Delta), filed this application requesting authority to install grade crossing warning devices consisting of flashing light signals with gates, bells, and constant warning devices at the crossing of County Road 4110 Drive (CR4110 Drive), across the tracks and right-of-way of the Union Pacific Railroad Company (UPRR), at railroad mile post 406.83, National Inventory I.D. No. 254-066C, east of the Town of Paonia, in Delta County, Colorado.

2. On March 21, 2003, 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 the adjacent property owners, in accordance with § 40-6-108(2), C.R.S. (1993). This Notice was mailed March 21, 2003.

4. On March 25, 2003, the Colorado Department of Transportation (CDOT) filed its Entry of Appearance and Notice of Intervention.

5. On April 3, 2003 the UPRR filed its Entry of Appearance and Notice of Intervention.

6. On May 27, 2003, the Commission received a copy of the fully executed Agreement by and between CDOT, Delta, and UPRR, dated May 2, 2003, pertaining to the construction, maintenance, and funding for this project.

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 *Colorado Code of Regulations* ("CCR") 723-1, because the application is noncontested and the Applicant did not request a public hearing.

B. Findings of Fact

9. The purpose of this application is to secure Commission approval to install grade crossing warning devices consisting of flashing light signals with gates, bells, and constant warning devices at the crossing of County Road 4110 Drive across the tracks and right-of-way of UPRR at railroad mile post 406.83, National Inventory I.D. No. 254-066C east of the Town of Paonia, in Delta County, Colorado.

10. CR 4110 Drive is classified as a rural minor collector road and is used by local traffic, school busses, trucks and farm equipment. The two-lane 21 foot wide paved road crosses

the UPRR at an approximate angle of 64 degrees. Topography obstructs the crossing view and there is no lighting. Westbound traffic is hindered by evening sun.

11. The average daily vehicle traffic at this crossing is 400 vehicles, including a school bus twice a day, five days a week. There are approximately 6 train movements a day with a projected increase to 20 trains per day with increased coal production in 2003.

12. The proposed warning devices will consist of train-activated flashing light signals with gates and bells. Track circuits will be constant warning devices that will provide 30 seconds of warning time for the approach of a train in either direction at any authorized train speed.

13. The work to be done and the expenses therefor will be paid in accordance with the appropriate rules and regulations of the Federal Government and are covered by an agreement by and between CDOT, Delta, and UPRR dated May 2, 2003. The total cost of the grade crossing signal project is \$168,661.

14. Maintenance of the roadway approaches to the crossing will be the responsibility of Delta. Maintenance of the crossing surface, roadbed, tracks, grade crossing warning devices, and appurtenances will be the responsibility of UPRR.

15. All exhibits, specifications, and plans 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. The County of Delta, State of Colorado is authorized and directed to install grade crossing warning devices consisting of flashing light signals with gates, bells, and constant warning devices at the crossing of County Road 4110 Drive across the tracks and right-of-way of the Union Pacific Railroad Company at railroad mile post 406.83, National Inventory I.D. No. 254-066C east of the Town of Paonia, in Delta County, Colorado.

2. Installation of the warning devices 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 crossing warning devices shall comply with the Agreement dated May 2, 2003, by and between the Colorado Department of Transportation, Delta County, Colorado and the Union Pacific Railroad Company.

4. The total actual cost of labor and material required for installation of the grade crossing warning devices shall be paid in accordance with the Agreement dated May 2, 2003, by and between the Colorado Department of Transportation, Delta County, Colorado and the Union Pacific Railroad Company.

5. Upon completion of the installation of the grade crossing warning devices ordered herein, the Union Pacific Railroad Company shall notify the Commission in writing within ten days of the initial operation of the warning devices.

6. If the installation authorized in Ordering Paragraph 1 above has not been completed within nine months of the effective date of this order, the Union Pacific Railroad Company shall file with the Commission:

- a. A status report of the project; and
- b. A progress report each month after the status report is filed, until the installation is completed.

7. The Union Pacific Railroad Company shall maintain the warning devices at its own expense for the life of the crossing so protected.

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

9. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
June 11, 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