

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 98A-238R

IN THE MATTER OF THE COLORADO DEPARTMENT OF TRANSPORTATION
CONSTRUCTING PHASE II OF A PROJECT TO REPLACE THE INTERSTATE 70 VIADUCT,
AND FOR THE UNION PACIFIC RAILROAD COMPANY TO A) RELOCATE THEIR
TRACKS AT BRIGHTON BLVD. AND B) TO CONSTRUCT NEW RAILROAD CROSSINGS
ACROSS BRIGHTON BLVD. AND ACROSS 44TH AVENUE, AT RAILROAD REFERENCE
POINTS 0.44 AND 0.10 DOWNTOWN SPUR, RESPECTIVELY, MORE OR LESS, LOCATED
IN DENVER COUNTY, COLORADO.

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: July 23, 2003
Adopted Date: July 16, 2003

I. BY THE COMMISSION

A. Statement

1. On June 1, 1998, the Colorado Department of Transportation (CDOT) filed this application requesting authority to reconfigure, widen, and install new active warning devices at the crossing of Brighton Boulevard at the Union Pacific Railroad Company (UPRR) railroad milepost 0.44, National Crossing No. 804-379K; and to widen the crossing of 44th Avenue across the industrial spur track of the UPRR at railroad milepost 0.10, National Crossing I.D. No. 804-396D, in the City and County of Denver, Colorado.

2. On June 11, 1998, 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 June 11, 1998.

4. On June 17, 1998, CDOT filed its Entry of Appearance and Notice of Intervention.

5. On June 29, 1998, the City and County of Denver (Denver), filed its Entry of Appearance and Notice of Intervention.

6. On June 30, 1998, UPRR filed its Entry of Appearance and Notice of Intervention.

7. Received by the Commission as a late filed exhibit, on September 4, 1998, is a copy of the fully executed agreement by and between CDOT and UPRR dated August 27, 1998.

8. Received by the Commission as a late filed exhibit, on June 23, 1999, is a copy of the fully executed contract amendment #1, by and between CDOT and UPRR dated June 8, 1999.

9. Received by the Commission as a late filed exhibit, on September 20, 1999, is a copy of the fully executed contract amendment #2, by and between CDOT and UPRR dated September 7, 1999.

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

11. 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.

12. 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

13. The purpose of this application is to secure Commission approval to reconfigure, widen and install new active warning devices consisting of train activated standard traffic signals at the crossing of Brighton Boulevard across the tracks and right-of-way of UPRR at railroad milepost 0.44, Crossing Inventory I.D. No. 804-397K; and to widen and install new passive warning devices at the crossing of 44th Avenue across the tracks and right-of-way of UPRR at railroad milepost 0.10, Crossing Inventory I.D. No. 804-396D, in the City and County of Denver, Colorado.

14. CDOT is reconstructing I-70 and the I-70 interchange at Brighton Boulevard. Brighton Boulevard is being widened to four lanes to accommodate the on/off ramp traffic of the I-70 and Brighton Boulevard interchange. The on/off ramp, Brighton Boulevard intersection will be controlled by standard traffic signals. The industrial spur track of the UPRR will be relocated to the south to avoid the on/off ramp intersection. Traffic signals with engineer signals will be installed at the grade crossing of the industrial spur track over Brighton Boulevard. The roadway intersection traffic signal system will be interconnected to and preempted by the grade crossing signal system.

15. As part of the project, 44th Avenue will be widened to four lanes from the intersection with Brighton Boulevard east of the crossing, westerly across the industrial spur track to the National Western Complex. The grade crossing will be protected with passive warning devices consisting of crossbuck warning signs and railroad advanced warning signs.

16. The average daily traffic (ADT) count on Brighton Boulevard at the existing crossing is 15,901 motor vehicles per day with a maximum allowable speed of 35 MPH. The projected ADT is 27,500 in the year 2010. The average daily traffic (ADT) count on 44th Avenue is approximately 3,617 motor vehicles per day with a maximum allowable speed of 35 MPH. The projected ADT is 6,300 in the year 2010. There are approximately 2 train movements per day three days per week with a maximum timetable speed of 5 miles per hour.

17. 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 and two Contract Amendments by and between CDOT and UPRR. The total budgeted cost of the project is \$30,000,000.00. The total estimated cost of the railroad grade crossing portion of the project is \$279,357.

18. Maintenance of the grade crossing surfaces, roadbed, tracks, crossbuck warning signs and train detection devices and appurtenances will be the responsibility of UPRR.

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

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

C. Conclusions On Findings Of Fact

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

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

23. 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.

24. 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 Colorado Department of Transportation, is authorized to reconfigure, widen, and install new active warning devices at the crossing of Brighton Boulevard across the industrial spur track of the Union Pacific Railroad Company at railroad milepost 0.44, National Crossing No. 804-379K; and to widen the crossing of 44th Avenue across the industrial spur track of the Union Pacific Railroad Company at railroad milepost 0.10, National Crossing I.D. No. 804-396D; all in the City and County of Denver, Colorado.

2. The railroad-highway grade crossing modifications and the 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 total actual cost of labor and material required for installation of the grade crossing warning devices shall be paid in accordance with the Agreement and Contract Amendments by and between the Colorado Department of Transportation and the Union Pacific Railroad Company.

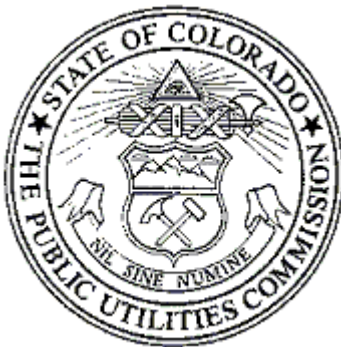
4. The Union Pacific Railroad Company shall maintain, at its own expense, the grade crossing surfaces and the grade crossing warning devices for the life of the crossings so protected.

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

6. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 16, 2003**

(SEAL)



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