

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-098R

IN THE MATTER OF THE APPLICATION OF THE TOWN OF PAONIA, 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 2ND STREET (US DOT-AAA GRADE CROSSING ID NO. 254-062A AT UPRR MILEPOST 0406.03), TOWN OF PAONIA, COLORADO.

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: October 20, 2003
Adopted Date: October 15, 2003

I. BY THE COMMISSION

A. Statement

1. On March 11, 2003, the Town of Paonia, Colorado (Paonia) 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 2nd Street west of Orchard Street, across the tracks and right-of-way of the Union Pacific Railroad Company (UPRR) at railroad milepost 406.03, National Inventory I.D. No. 254-062A, in the Town of Paonia, Delta County, Colorado.

2. 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.

3. On March 21, 2003, the Staff of the Commission filed its Entry of Appearance and Notice of Intervention.

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, UPRR filed its Entry of Appearance and Notice of Intervention.

6. On April 14, 2003, the Board of County Commissioners of Delta filed its Entry of Appearance and Notice of Intervention.

7. On April 23, 2003, Jeannette Brunner filed a Notice of Intervention protesting the granting of the application. This protest was subsequently withdrawn on May 14, 2003.

8. On July 7, 2003, the Commission received a copy of the fully executed Agreement by and between CDOT, Paonia, and UPRR, dated July 2, 2003, pertaining to the construction, maintenance, and funding for this project.

9. 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.

10. 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 now uncontested.

B. Findings of Fact

11. 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 2nd Street west of Orchard Street across the tracks and right-of-way of the UPRR at railroad milepost 406.03, National Inventory I.D. No. 254-062A, in the Town of Paonia, County of Delta, Colorado.

12. The average daily vehicular traffic count on 2nd Street at the existing crossing is approximately 500 vehicles per day, including a school bus twice a day, five days a week. There are currently 2-6 trains per day with a projected increase of an average 20 train crossings per day

13. The proposed warning devices will consist of flashing signals with gates, warning bells, and constant warning devices.

14. 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 the CDOT, Paonia, and UPRR dated July 2, 2003. The estimated cost of the railroad portion of the project is \$162,424.

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

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

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

C. Conclusions On Findings Of Fact

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

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

20. 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.

21. 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 Town of Paonia, Colorado is authorized to install grade crossing warning devices consisting of flashing light signals with gates, bells, and constant warning devices at the crossing of 2nd Street west of Orchard Street, across the tracks and right-of-way of the Union Pacific Railroad Company at railroad milepost 406.03, National Inventory I.D. No. 254-062A, in the Town of Paonia, 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 July 2, 2003, by and between the Colorado Department of Transportation, the Town of Paonia, 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 July 2, 2003, by

and between the Colorado Department of Transportation, the Town of Paonia, Colorado and the Union Pacific Railroad Company.

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

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

7. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 15, 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