

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-020R

IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF
TRANSPORTATION FOR AUTHORITY TO MODIFY EXISTING FLASHING LIGHT
SIGNALS AND AUTOMATIC GATE ARMS AND TRAFFIC SIGNALS AT THE CROSSING
OF THE BURLINGTON NORTHERN AND SANTA FE RAILROAD TRACK AT
U.S. HIGHWAY 85 AND COUNTY ROAD 16, DOUGLAS COUNTY, COLORADO.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
VACATING PROCEDURAL SCHEDULE,
SCHEDULING PREHEARING CONFERENCE,
LISTING ISSUES FOR DISCUSSION, AND
GIVING NOTICE OF APPLICANT'S
WAIVER OF § 40-6-109.5, C.R.S.**

Mailed Date: April 7, 2004

I. STATEMENT

1. On January 9, 2004, the Colorado Department of Transportation (Applicant) filed an application for a Commission order authorizing installation of specified safety devices at the crossing of the Burlington Northern and Santa Fe railroad track at U.S. Highway 85 and Douglas County Road 16, located in Douglas County Colorado (Application). The Application, which is not verified, commenced this proceeding.

2. In the Application at ¶ 16, the Applicant waived the statutory time frames set out in § 40-6-109.5, C.R.S.

3. On February 20, 2004, the Commission gave public notice of the Application. See Notice of Application Filed, dated February 20, 2004 (Notice). In that Notice, the

Commission established an intervention period and a procedural schedule. By this Order, the undersigned Administrative Law Judge will vacate that procedural schedule.

4. On March 9, 2004, The Burlington Northern and Santa Fe Railway Company (BNSF) intervened in this matter. In its intervention BNSF stated that it neither opposes nor contests the Application.

5. On March 9, 2004, Staff of the Commission (Staff) intervened of right and requested a hearing in this matter. In its intervention Staff stated that it contests the Application.

6. On March 19, 2004, Douglas County intervened of right and requested a hearing in this matter. In its intervention Douglas County stated that it contests the Application.

7. As a result of the interventions which contest the Application, it is necessary to schedule a hearing and to establish a procedural schedule in this proceeding. To do so, a prehearing conference will be held on April 27, 2004. The provisions of Rule 4 *Code of Colorado Regulations* (CCR) 723-1-79(b)(3) and of Rule 4 CCR 723-1-79(b)(4) govern this prehearing conference.

8. The parties should be prepared to discuss these matters at the prehearing conference: (a) date by which Applicant will file its list of witnesses and copies of its exhibits; (b) date by which each intervenor will file its list of witnesses and copies of its exhibits; (c) date by which each party will file its prehearing motions;¹ (d) discovery procedures; (e) whether a final prehearing conference is necessary and, if it is, date for that prehearing conference; (f) date

¹ This date should be at least 10 days before the final prehearing conference or, if there is no final prehearing conference, 14 days before the hearing.

by which the parties will file any stipulation reached;² (g) hearing dates; and (h) whether there should be post-hearing statements of position and, if so, the date for post-hearing statements of position and whether responses should be permitted. Further, the parties should review, and be prepared to discuss to the extent relevant, the matters contained in Rule 4 CCR 723-1-79(b)(5). Parties may raise any additional issues.

9. The undersigned expects the parties to consult prior to the prehearing conference with respect to the listed matters. The parties are encouraged to present, if possible, a procedural schedule and hearing date(s) which are satisfactory to all parties.

II. ORDER

A. It Is Ordered That:

1. The procedural schedule established in the Notice of Application Filed, dated February 20, 2004, is vacated.

2. The provisions of § 40-6-109.5, C.R.S., do not apply in this proceeding.

3. A prehearing conference in this docket is scheduled as follows:

DATE: April 27, 2004

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
1580 Logan Street, OL2
Denver, Colorado

4. The parties shall follow the procedures, and be prepared to discuss the matters, as set forth above.

5. This Order is effective immediately.

² This date should be at least seven calendar days before the first day of hearing.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge