

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-094R

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF ROUTT, 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 ROUTT COUNTY ROAD 205 (DOT
CROSSING NO. 253-672E) NEAR STEAMBOAT SPRINGS, COLORADO.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
VACATING PROCEDURAL SCHEDULE,
SCHEDULING PREHEARING CONFERENCE,
AND LISTING ISSUES FOR DISCUSSION**

Mailed Date: June 8, 2004

I. STATEMENT

1. On March 4, 2004, the County of Routt (Applicant) filed an application for a Commission order authorizing installation of a railroad crossing protection device at the crossing of the Union Pacific Railroad Company railroad track and Routt County Road 205, located in Routt County, Colorado (Application). The Application commenced this proceeding.

2. On April 1, 2004, the Commission gave public notice of the Application. *See* Notice of Application Filed, dated April 1, 2004 (Notice). In that Notice, the Commission established an intervention period and a procedural schedule. By this Order, the undersigned Administrative Law Judge (ALJ) will vacate that procedural schedule.

3. On April 19, 2004, the Union Pacific Railroad Company (UPRR) intervened in this matter. In its intervention UPRR stated that it neither opposes nor contests the Application

and reserved the right to object and to participate as its interests may appear. There are no other interventions.

4. On May 26, 2004, the Commission deemed the Application complete as of that date and referred this matter to an administrative law judge for hearing.

5. As a result of the UPRR intervention it is not clear whether the Application is contested. To clarify this matter and, if needed, to schedule a hearing and to establish a procedural schedule, the ALJ will hold a prehearing conference in this proceeding on June 17, 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.

6. The first issue to be discussed at the prehearing conference is whether this Application is contested. The second issue is whether a hearing is necessary, even if the Application is uncontested, because Applicant seeks to have the Crossing Protection Fund pay 70% of the project's cost. See §§ 40-4-106(2)(b) and 40-29-116, C.R.S.; Amended Application at ¶ 8.

7. In the event a hearing is necessary, 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) whether a final prehearing conference is necessary and, if it is, date for that prehearing conference; (e) date by which the parties will file any stipulation reached;² (f) hearing dates and city; and (g) whether

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.

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

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. In addition, the parties should review the discovery procedures as set out in Rule 4 CCR 723-1-77 and, if necessary, should be prepared to discuss modification(s) to those procedures. 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). Finally, parties may raise any additional issues.

8. In considering proposed dates, parties should keep in mind that the Commission deemed the Application complete as of May 26, 2004. Absent Applicant's waiver of the statutory time frame or a finding of extraordinary circumstances, a Commission decision in this proceeding should issue within 210 days of that date (*i.e.*, December 22, 2004). *See* § 40-6-109.5, C.R.S. Any procedural schedule must take into consideration, and allow time for, preparation of a recommended decision, preparation of exceptions to the recommended decision and responses to exceptions, and preparation and issuance of a Commission decision on exceptions,³ all of which should occur by December 22, 2004.

9. For purposes of considering proposed hearing dates, the parties are advised that the ALJ is unavailable August 25 through and including September 27, 2004.

10. 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.

³ As a general rule and not including the time necessary for preparation of a transcript if one is ordered, these activities consume 10 to 12 weeks from the latter of: the last day of hearing, the filing of the statements of position, or the filing of responses to statements of position.

11. If it wishes to do so, Applicant may participate in this prehearing conference by telephone. To make arrangements for participating by telephone, Applicant is directed to contact Mr. Lloyd Petersen at the Commission (telephone: 303.894.2008) no later than close of business on June 15, 2004.

II. ORDER

A. It Is Ordered That:

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

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

DATE: June 17, 2004

TIME: 9:00 a.m.

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

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

4. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge