

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-200R

IN THE MATTER OF THE APPLICATION OF THE CITY OF AURORA, COLORADO, FOR
AUTHORITY TO TIE TRAFFIC SIGNAL RAILROAD INTERCONNECT EQUIPMENT FOR
TRAFFIC SIGNALS AT SMITH ROAD AND TOWER ROAD INTO THE UNION PACIFIC
RAILROAD COMPANY SIGNAL BOX AT TOWER ROAD.

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

Mailed Date: July 1, 2004

I. STATEMENT

1. On April 26, 2004, the City of Aurora (Applicant) filed an application seeking Commission authorization to tie traffic signal interconnect equipment at Tower Road and Smith Road into the Union Pacific Railroad Company (UPRR) track circuit equipment on Tower Road (Application). Applicant also asks that the proposed project's cost be allocated between the Applicant, the UPRR, and the Highway Crossing Protection Fund. *See* Application at ¶ 15. The Application, which is verified, commenced this proceeding.

2. On May 5, 2004, the Commission gave public notice of the Application. *See* Notice of Application Filed, dated May 5, 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 May 14, 2004, UPRR intervened in this matter. UPRR stated that, while it neither opposes nor contests the Application, it reserved its right to participate as its interests may appear.

4. The intervention period expired on June 7, 2004. UPRR is the only intervenor.

5. The Commission deemed the Application complete as of June 16, 2004. *See* Minute Entry dated June 16, 2004.

6. As a result of the intervention and of the request for monies from the Highway Crossing Protection Fund (*see* § 40-4-106(2)(b), C.R.S.), 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 July 16, 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.

7. The parties must be prepared to discuss these matters at the prehearing conference: (a) date by which Applicant will file its list of witnesses, summaries of witness testimony, and copies of its exhibits; (b) date by which UPRR will file its list of witnesses, summaries of witness testimony, 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, the date for that prehearing conference; (e) date by which the parties will file any stipulation reached;² (f) hearing date(s); and (g) 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. In addition, if they believe that the discovery procedures found in Rule 4 CCR 723-1-

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.

77 are insufficient, the parties should propose the discovery-related procedures which they believe would be sufficient. 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, each party may raise any additional issue.

8. In considering proposed dates, parties should bear in mind that the Commission has deemed the Application complete as of June 16, 2004. Applicant did not file its direct testimony and exhibits with the Application. Accordingly, 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 June 16, 2004 (*i.e.*, on or before January 12, 2005). *See* §§ 40-6-109.5(2) and 40-6-109.5(4), C.R.S. Any procedural schedule must take into consideration, and must allow time for, preparation of a recommended decision, preparation of exceptions to the recommended decision and response to exceptions, and preparation of a Commission decision on exceptions,³ all of which should occur by January 12, 2005.

9. The parties are advised that the **ALJ is not available** from August 25, 2004 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 end of the hearing, the filing of statements of position, or the filing of responses to statements of position, whichever occurs last.

II. ORDER

A. It Is Ordered That:

1. The procedural schedule established in the Notice of Application Filed is vacated.

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

DATE: July 16, 2004

TIME: 1:00 p.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

