

Decision No. R04-0856-I

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 04A-020R

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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.

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**INTERIM ORDER OF  
ADMINISTRATIVE LAW JUDGE  
MANA L. JENNINGS-FADER  
REGARDING AMENDED STIPULATION  
AND ISSUES FOR HEARING**

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Mailed Date: July 26, 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 commenced this proceeding. In the Application at ¶ 16, the Applicant waived the statutory time frames contained in § 40-6-109.5, C.R.S.

2. On February 20, 2004, the Commission gave public notice of the Application. The Burlington Northern and Santa Fe Railway Company, Staff of the Commission, and Douglas County intervened of right. Aggregate Industries, Inc., was granted intervenor status by Decision No. R04-0752-I.<sup>1</sup>

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<sup>1</sup> Collectively, Applicant and the intervenors are referred to as the parties.

3. The hearing in this matter is scheduled for October 24 and 25, 2004. Decision No. R04-0752-I established the procedural schedule in this proceeding.

4. On July 23, 2004, the parties filed an Amended Stipulation which supercedes the Stipulation and Settlement Agreement filed on April 23, 2004. The Amended Stipulation, which is signed by all parties, provides that the parties “agree that the modifications proposed by the Application, except for the pre-signal, are acceptable” and should be made in accordance with the plans submitted with the Application. *Id.* at ¶ 4. The Amended Stipulation identifies, at ¶¶ 5 and 6, the remaining issue for resolution in this proceeding. Finally, the Amended Stipulation states, at ¶ 7, that Applicant is not seeking monies from the highway crossing protection fund for this project because “Aggregate Industries agrees to fund the contemplated improvements.”

5. The Amended Stipulation seeks to narrow the issues for hearing. The undersigned Administrative Law Judge may have questions about the underlying project to which the parties should be prepared to respond. In the main, however, the hearing will focus on the remaining issue in dispute (*i.e.*, the pre-signal); the parties may file their witness lists and summaries of testimony focused on this issue.

**II. ORDER**

**A. It Is Ordered That:**

1. The filing of the Amended Stipulation is noted and, consistent with the discussion above, will narrow the issues for hearing.

2. The parties shall follow the procedures and shall make the filings set out in Decision No. R04-0752-I, as limited by this Order.

3. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Administrative Law Judge