

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-190R

IN THE MATTER OF THE APPLICATION OF THE AURARIA HIGHER EDUCATION CENTER FOR AN ORDER AUTHORIZING THE INSTALLATION OF A PEDESTRIAN CROSSING TO BE CONSTRUCTED IN THE RIGHTS-OF-WAY OF RTD AND UNION PACIFIC RAILROAD COMPANY (US DOT-AAR CROSSING I.D. NO. 253010E AT UPRR MILEPOST 1.2) IN CURTIS STREET, BETWEEN 5TH STREET AND 7TH STREET IN THE CITY AND COUNTY OF DENVER, COLORADO.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
VACATING PROCEDURAL SCHEDULE
AND ESTABLISHING NEW
PROCEDURAL SCHEDULE**

Mailed Date: October 19, 2004

I. STATEMENT

1. On April 15, 2004, the Auraria Higher Education Center (Applicant) filed an application for a Commission order authorizing the installation of a concrete pedestrian crossing to be constructed in the rights-of-way of the Regional Transportation District and the Union Pacific Railroad Company at a location in Denver, Colorado (Application). The Application commenced this proceeding.

2. On May 3, 2004, the Commission gave public notice of the Application. *See* Notice of Application Filed, dated May 3, 2004 (Notice). That Notice established a procedural schedule for this proceeding. By this Order the undersigned Administrative Law Judge (ALJ) will vacate that procedural schedule.

3. On May 27, 2004, Union Pacific Railroad Company (UPRR) intervened of right.

4. On June 2, 2004, the Regional Transportation District (RTD) intervened of right.

5. On October 8, 2004, by Decision No. C04-1169 the Commission deemed the Application complete as of that date and referred this matter to an ALJ. The Commission provided this specific guidance: Referral to the ALJ was “for determination of [the Application’s] merits, including the status of the final contract between the parties for construction and maintenance of the crossing” (*id.* at ¶ I.A.8). In addition, the Commission directed to the ALJ to “establish a procedural schedule for the filing of exhibits and witness lists and any pre-filed testimony.” *Id.* at ¶ II.A.3.

6. The time for Staff of the Commission to (Staff) intervene in this matter has expired. Staff has not intervened. Thus, the only parties in this matter are Applicant, UPRR, and RTD.

7. Hearing in this matter is scheduled for March 14, 2005. *See* Decision No. C04-1169 at ¶ II.A.2.

8. In view of this hearing date and the Commission’s guidance, and to provide the parties time to come to a final agreement and written contract with respect to construction and maintenance of the proposed pedestrian crossing, the following schedule will be adopted: (a) on or before **February 11, 2005**, Applicant will file its list of witnesses, a detailed summary of the testimony of each identified witness, and copies of its exhibits (including a copy of the final contract for construction and maintenance of the proposed crossing); (b) on or before **February 25, 2005**, each intervenor will file its list of witnesses, a detailed summary of the testimony of each identified witness, and copies of its exhibits; (c) on or before **March 9, 2005**,

each party will file its prehearing motions;¹ (d) on or before **March 9, 2005**, the parties will file any stipulation reached;² (e) hearing in this matter will be held on **March 14, 2005**.

9. No final prehearing conference will be scheduled. If a party believes that a final prehearing conference would be beneficial, that party may file an appropriate motion.

10. Absent further order, there will be no post-hearing statements of position.

11. In accordance with Commission procedure, absent good cause shown, no witness may testify (except in rebuttal) unless that witness has been identified and her/his testimony is summarized in accordance with the procedural schedule established in this Order. Similarly, absent good cause, no exhibit may be admitted (except in rebuttal) unless that exhibit has been provided in accordance with the procedural schedule established in this Order.

12. The provisions of Rule 4 *Code of Colorado Regulations* (CCR) 723-1-77 will govern discovery and motions to compel discovery in this proceeding.

13. Rule 4 CCR 723-1-22(d)(3) states: "If a pleading refers to new court cases or other authorities not readily available to the Commission, six copies of each case or other authority shall be filed with the pleading." If a party wishes the ALJ to consider a cited authority *other than* an opinion of the United States Supreme Court, a reported Colorado state court opinion, or a Commission decision, the party must provide copies of that cited authority.

14. The parties must provide the decision number when referring to a Commission decision.

¹ A filing party shall provide a copy of any filed motion directly to the ALJ (delivered to her office). This will not reduce the number of copies which must be filed with the Commission.

² The parties shall provide a copy of any filed stipulation directly to the ALJ (delivered to her office). This will not reduce the number of copies which must be filed with the Commission.

II. ORDER

A. It Is Ordered That:

1. The procedural schedule established in the Notice of Application Filed, dated May 3, 2004, is vacated.
2. The procedural schedule set out above is adopted.
3. The parties shall follow the procedures and shall make the filings set out above.
4. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge