

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 18A-0530R

IN THE MATTER OF THE APPLICATION OF BOULDER COUNTY, FOR AUTHORITY TO INSTALL 4-QUADRANT RAILROAD GATES WITH FLASHING LIGHTS, BELLS, CONSTANT WARNING TIME CIRCUITRY, AND RAILROAD SIGNAL CABIN, AT TRACKS OWNED BY BNSF RAILWAY COMPANY CROSSING 2ND AVENUE (MAIN STREET), USDOT NO. 244834F, IN BOULDER COUNTY, STATE OF COLORADO.

**INTERIM COMMISSION DECISION REFERRING
MATTER TO AN ALJ FOR DISPOSITION**

Mailed Date: June 3, 2019
Adopted Date: May 29, 2019

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of a 5th Motion for Extension of Time and Request for Commission Relief with Regard to BNSF's Final Plans and Cost Estimates (Motion) filed by Boulder County (Boulder) on April 29, 2019, requesting additional time to August 1, 2019 to file the final design plans and estimate for Commission review and approval and requesting the Commission's assistance in obtaining from BNSF Railway Company (BNSF) the requisite plans and estimates to complete Boulder's Application.

2. As grounds, Boulder states in its Motion that it filed the Application with the Commission on August 2, 2018. Boulder requested cost estimates and plans from BNSF on July 11, 2018, again on October 22, 2018, and held a conference call with BNSF on February 1, 2019. Boulder states that BNSF has declined to provide plans and estimates or even a timeline

of when those items would be available to Boulder, which has required Boulder to file several extensions of time with the Commission.

3. There were no responses filed to the Motion.

4. In an effort to move this Proceeding forward and this Application to completion, we will refer this matter to an Administrative Law Judge (ALJ) to hold a status conference on the Motion for a determination of the issues of why BNSF has been unable to provide a cost estimate and plans to Boulder for over ten months, what will be necessary to get the plans and estimates filed to complete the Application, and a disposition on the merits. We expect an ALJ to be better positioned to resolve this matter as soon as possible.

II. ORDER

A. It Is Ordered That:

1. Proceeding No. 18A-0530R is referred to an Administrative Law Judge of the Colorado Public Utilities Commission for handling of the Motion for Extension of Time and Request for Commission Relief with Regard to BNSF's Final Plans and Cost Estimates filed by Boulder County on April 29, 2019, and for determination of the merits.

2. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 29, 2019.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners