

Decision No. C19-0783-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0440R

IN THE MATTER OF THE APPLICATION OF BNSF RAILWAY COMPANY FOR
AUTHORITY TO MODIFY AND UPGRADE ACTIVE WARNING DEVICES AT THE
CROSSING AT U.S. HIGHWAY 34 IN BRUSH, COLORADO (DOT # 057578C).

**INTERIM DECISION DEEMING
APPLICATION COMPLETE AND REFERRING
APPLICATION TO AN ADMINISTRATIVE LAW JUDGE**

Mailed Date: September 24, 2019

Adopted Date: September 18, 2019

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the BNSF Railway Company (BNSF) on August 8, 2019, requesting authority to modify the active warning devices at the crossing of U.S. 34 across the tracks of the BNSF to remove the inner second entrance gate, employ “stop and wait” signs for the industry track, and installing constant warning time detection at railroad milepost 149.06 of the Brush Subdivision, National Inventory No. 057578C, in the City of Brush, County of Morgan, State of Colorado. BNSF requests funding from the Highway-Rail Signalization Fund with BNSF paying for 20 percent of the costs, the Colorado Department of Transportation paying for 10 percent of the costs, and the Highway-Rail Signalization Fund paying for 70 percent of the costs.

2. The Commission gave notice of this Application (Notice) to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S. The Notice was mailed on August 9, 2019.

3. No interventions were filed in this matter.

4. The Commission has reviewed the record in this matter and deems that the Application is complete within the meaning of § 40-6-109.5, C.R.S.

5. The Commission has jurisdiction in this matter under §§ 40-4-106(2)(a) and (3)(a), C.R.S.

6. Because funding is being requested from the Highway-Rail Signalization Fund, § 40-4-106(2)(b), C.R.S., requires a hearing on the Application and determination of the appropriate allocation of costs of the project.

7. Now being fully advised in the matter, we refer the Application to an Administrative Law Judge for determination of the merits of the Application and appropriate allocation of costs of this project.

II. ORDER

A. It Is Ordered That:

1. The application (Application) filed by the BNSF Railway Company (BNSF) on August 8, 2019, requesting authority to modify the active warning devices at the crossing of U.S. 34 across the tracks of the BNSF to remove the inner second entrance gate, employ “stop and wait” signs for the industry track, and installing constant warning time detection at railroad milepost 149.06 of the Brush Subdivision, National Inventory No. 057578C, in the City of Brush, County of Morgan, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. Proceeding No. 19A-0440R is referred to an Administrative Law Judge of the Colorado Public Utilities Commission for disposition of the interventions and determination of the merits of the Application.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 18, 2019.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners

CHAIRMAN JEFFREY P. ACKERMANN
ABSENT.