

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 18A-0532R

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 INDEPENDENCE ROAD, USDOT NO.244822L, IN BOULDER COUNTY, STATE OF COLORADO.

**INTERIM COMMISSION DECISION REFERRING
MATTER TO AN ADMINISTRATIVE LAW JUDGE**

Mailed Date: December 28, 2020

Adopted Date: December 16, 2020

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application amendment (Amendment) filed by the County of Boulder (Boulder County) on November 17, 2020, seeking to change the exit gate delay timing at the crossing of Independence Road with the tracks of the BNSF Railway Company (BNSF) at railroad milepost 32.329 on the Front Range Subdivision, National Inventory Number 244822L, near the City of Boulder, Boulder County, State of Colorado.

2. By this Decision, we refer the matter to an Administrative Law Judge (ALJ) for disposition considering potential safety issues posed by the Amendment.

B. Discussion

3. This proceeding began on August 2, 2018 when Boulder County filed an Application seeking approval of design plans to upgrade the subject crossing. Boulder County

requested to install a four-quadrant gate system with timed exit gate operation of eight seconds between the time the entrance gate starts to descend and when the exit gate starts to descend. The original Application was granted by Recommended Decision No. R19-0732, issued September 5, 2019. By Decision No. C19-0997, issued December 13, 2019, we took up exceptions to the Recommended Decision and modified certain deadlines, but otherwise adopted the Recommended Decision.

4. On November 17, 2020, Boulder County filed its Amendment. Boulder County states that the Application approved by the Commission required the removal of existing approach gates and the installation of a four-quadrant gate system, with railroad gates installed parallel to the tracks. Under this configuration there was to be a 30-foot distance between the entrance and exit gates.

5. According to Boulder County, BNSF has completed the installation of the four-quadrant gate system. However, BNSF installed the exit gates perpendicular to the roadway and directly opposite the location of the existing approach railroad gates, instead of parallel to the tracks as required by the Commission. Boulder County does not know if BNSF replaced the existing approach railroad gates.

6. Additionally, Boulder County states that the distance between the entrance and exit gates as installed is 60 feet, which is 30 feet longer than originally designed and approved. BNSF has requested that Boulder County update the exit gate delay calculations based on the four-quadrant gate system as it is installed.

7. Due to the differences between what was approved in Boulder County's Application and the crossing upgrade as it was installed, Boulder County seeks to amend its Application. Specifically, Boulder County requests its Application be amended to reflect the

installation of railroad exit gates perpendicular to the roadway and the installation of approach railroad gates, if they are replaced, in the same location as the existing approach railroad gates and remaining perpendicular to the roadway. It also seeks to revise the approved exit gate timing calculation and extend the exit gate delay timing from eight seconds to ten seconds to accommodate the additional 30 feet of distance between the entrance and exit gates.

8. The Amendment provides no information regarding the safety of the crossing upgrade as it was constructed by BNSF.

9. No comments were filed regarding the Amendment.

B. Findings and Conclusions

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

11. We have reviewed the Amendment and are concerned that the crossing upgrade as installed by BNSF creates a substantially shortened storage distance for westbound vehicles between the exit gate and the stop bar for the Independence Road/SH 119 intersection. Nothing in the Amendment speaks to this shortened storage distance and whether it creates a safety concern. We find that this potential safety concern requires additional information from Boulder County and BNSF.

12. Additionally, the Amendment does not contain any information on why BNSF failed to install the crossing upgrade in compliance with the Commission's order approving the Application. We find that BNSF's failure to comply with the Commission's order also requires additional information.

13. Therefore, we refer this matter to an ALJ for further disposition, including whether the requests contained in the Amendment present a safety concern and the appropriate allocation of costs if mitigation of a safety concern would create additional project costs.

14. We believe the following questions will provide information necessary to this proceeding. This list is not exclusive.

- a) Why did BNSF not construct the crossing as ordered by the Commission?
- b) Did BNSF install new entrance gates at the crossing?
- c) What is the storage distance for westbound vehicles between the exit gate as installed and the stop bar for the Independence Road/SH 119 intersection?
- d) If any changes need to be made at the crossing to mitigate any introduced safety issues, what are those costs and how should those costs be allocated between Boulder County and BNSF?
- e) Did Boulder County have anyone on site to inspect the work that BNSF did when installing the crossing equipment?
- f) What are the possible options to mitigate the safety issues?

II. ORDER

A. The Commission Orders That:

1. The amendment filed by the County of Boulder (Boulder County) on November 17, 2020, seeking to alter the approved configuration of the four-quadrant gate system and revise the approved exit gate delay timing at the crossing of Independence Road with the tracks of the BNSF Railway Company (BNSF) at railroad milepost 32.329 on the Front Range Subdivision is referred to an Administrative Law Judge for further disposition, consistent with the discussion above.

2. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 16, 2020.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners