

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 DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
REQUIRING ADDITIONAL FILINGS**

Mailed Date: January 5, 2021

I. 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. 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. After the filing of exceptions to the Recommended Decision certain deadlines were

modified, but otherwise the Recommended Decision was adopted by Decision No. C19-0997, issued December 13, 2019.

3. 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.

4. 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.

5. 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.

6. 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.

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

8. On December 28, 2020, by Decision No. C-20-0918-I, 2020, the Commission referred this matter to an Administrative Law Judge (ALJ).

II. DECISION NO C20-0918-I

9. The Commission reviewed the Amendment and expressed concerns 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.

10. Additionally, the Commission determined that 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. The Commission determined that BNSF's failure to comply with the Commission's order also requires additional information.

11. The matter was referred 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.

12. To present a full record to the Commission BNSF shall provide answers in writing to the following questions within 45 days:

- 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?

13. Boulder County is ordered to file answers to questions d through f within 45 days.

14. If the submitted answers are unsatisfactory the parties may be required to make further filings and/or appear before the Commission to answer questions.

III. ORDER

A. The Commission Orders That:

1. BNSF Railway Company and the County of Boulder are ordered to make filings consistent with the discussion above.

2. The filings shall be filed within 45 days of this Decision.

3. This Decision shall be effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director