

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0353R

IN THE MATTER OF THE APPLICATION OF THE CITY OF LONGMONT, COLORADO, 80501 FOR AUTHORITY TO CONSTRUCT A NEW AT-GRADE CROSSING OF THE BURLINGTON NORTHERN SANTA FE TRACKS ON THE PROPOSED BOSTON AVENUE EXTENSION AND FOR AUTHORITY TO CLOSE THE EXISTING CROSSINGS OF THE BURLINGTON NORTHERN SANTA FE TRACKS AT FIFTH AVENUE AND TERRY STREET IN LONGMONT, COLORADO.

**INTERIM DECISION GRANTING UNOPPOSED MOTION
FOR ADDITIONAL TIME FOR FILING**

Issued Date: February 20, 2025

I. STATEMENT¹

A. Procedural History

1. On June 27, 2023 the City of Longmont (“Longmont” or “City”) filed an Application (“Application”), requesting authority to open a new highway-rail grade crossing at the extension of Boston Avenue with the tracks of the BNSF Railway Company (“BNSF”) at railroad milepost 43.4 of the Front Range Subdivision, no existing National Inventory Number, in Longmont, County of Boulder, in the State of Colorado, and to close the existing crossings of 5th Avenue at railroad milepost 44.289, National Inventory No. 245003Y and Terry Street, at railroad milepost 43.430, National Inventory No. 244846A, in Longmont, in the State of Colorado. This filing commenced Proceeding No. 23A-0353R.

¹ Only the procedural history necessary to understand this Decision is included.

2. By Decision No. C23-0560-I, issued August 31, 2023, the Commission referred this matter to an Administrative Law Judge (“ALJ”) for determination of the merits of the Application.

3. On October 17, 2023, Longmont waived its statutory right to a decision within 120 days after the Application was deemed complete pursuant to § 40-6-109.5(3), C.R.S.²

4. By Decision No. R24-0899-I, issued December 10, 2024, the undersigned ALJ required the parties within 60 days of the issuance of that Decision to either:

(a) make a filing establishing that the Parties resolved all issues in this Proceeding, attach to such filing the final executed copy of the parties’ settlement agreement, cost estimate for signal improvement, cost estimate for rail improvement, and a sketch plan, and identify all differences between these attachments and the settlement agreement, cost estimate for signal improvement, cost estimate for rail improvement, and a sketch plan filed on January 8, 2024 in this Proceeding; or;

(b) file a motion requesting a prehearing conference to discuss any outstanding disputes between the parties.”³

5. On February 10, 2025, Longmont filed a Status Report and Notice of Filing (“Status Report”) indicating that although the parties have not reached a final agreement, they are working diligently toward settlement. In the Status Report, Longmont lists various updated documents that it has sent to BNSF to address BNSF’s remaining concerns. The list of documents includes a spreadsheet of Longmont’s response to BNSF’s concerns, a traffic signal preemption request form, revised plans, and updated preemption calculations.⁴ The documents

² Second Joint Motion Requesting Continuance of the October 18, 2023 Evidentiary Hearing, or in the Alternative, a Request for a Status Conference at ¶ 6.

³ Decision No. R24-0899-I at p. 4.

⁴ Status Report at ¶¶ 12-15.

were sent to BNSF between November 26, 2024, and February 5, 2025,⁵ and were attached to the Status Report.⁶

6. On February 10, 2025, BNSF filed a Status Report and Unopposed Motion for Additional Time for Filing (“Motion”). BNSF’s Motion confirms that the parties are working diligently towards settlement, but states that it needs additional time to review the documents recently shared by Longmont. BNSF requests an additional 60 days for the parties to either come to a resolution or request a prehearing conference to address any remaining impasse. Longmont does not oppose the relief requested in the Motion.

B. Motion

7. The Motion states good cause to grant the extension of time of an additional 60 days within which to file a notice of resolution or request for prehearing conference. As the parties are diligently working towards settlement, and Longmont has waived the statutory deadline for a decision under § 40-6-109.5(3), C.R.S., no party will be prejudiced by the granting of the requested extension of time.

8. Since the Motion is unopposed, the ALJ will waive response time to the Motion, in accordance with Rule 1400(b) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulation* 723-1.

⁵ See *Id.* and the attachments to the Status Report entitled: Spreadsheet of Longmont’s Responses, BNSF Preemption Request Form, Revised Truck Turning Diagram, Preemption Worksheet, and Revised Plans.

⁶ The filings attached to the Status Report are titled Revised Diagnostic Minutes, Preemption Worksheet, Revised Plans, Spreadsheet of Longmont Responses, and Revised Truck Turning Diagram.

II. ORDER**A. It Is Ordered That:**

1. Consistent with the discussion above, response time to the Unopposed Motion for Additional Time for Filing filed by BNSF Railway Company on February 10, 2025 (“Motion”) is waived.

2. The Motion is granted.

3. Consistent with the discussion above, within 60 days of the Issued Date of this Decision, the parties shall either:

- a. make a filing establishing that the Parties resolved all issues in this Proceeding, attach to such filing the final executed copy of the parties’ settlement agreement, cost estimate for signal improvement, cost estimate for rail improvement, and a sketch plan, and identify all differences between these attachments and the settlement agreement, cost estimate for signal improvement, cost estimate for rail improvement, and a sketch plan filed on January 8, 2024 in this Proceeding; or
- b. file a motion requesting a prehearing conference to discuss to any remaining impasse between the parties.

4. This Decision is effective immediately.



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Administrative Law Judge

Rebecca E. White,
Director