

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0416R

IN THE MATTER OF THE APPLICATION OF THE CITY OF GREELEY FOR AUTHORITY TO DESIGN AND IMPLEMENT HIGHWAY-RAIL GRADE CROSSING SAFETY IMPROVEMENTS ON THE UNION PACIFIC RAILROAD AT 13TH STREET (DOT NO. 804367T) IN THE CITY OF GREELEY, WELD COUNTY, COLORADO.

**INTERIM DECISION
ADDRESSING INTERVENTIONS AND
SCHEDULING REMOTE PREHEARING CONFERENCE**

Issued Date: November 19, 2025

I. STATEMENT, SUMMARY, AND PROCEDURAL HISTORY

1. This Decision addresses Colorado Public Utilities Commission (“Commission”) Trial Staff’s (“Staff”) “Notice of Intervention as of Right . . . Entry of Appearance . . . and Request for Hearing” filed October 13, 2025 (“Staff’s Intervention”); affirms that Union Pacific Railway (“Union Pacific”) is a party to this Proceeding; schedules a fully remote prehearing conference for December 11, 2025 at 2:00 p.m.; requires the parties to confer on a procedural schedule before the prehearing conference; and advises the parties that if they file an acceptable proposed consensus procedural schedule by December 8, 2025, the prehearing conference will be vacated.

A. Procedural History¹

2. This matter concerns the City of Greeley’s (“Greeley”) above-captioned Application filed September 9, 2021 (“Application”). The Application seeks preliminary approval

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

to make changes at a railroad crossing with tracks belonging to Union Pacific at 13th Street in Greeley, Colorado, railroad milepost 51.837, National Inventory No. 804367T.²

3. On September 27, 2021, Union Pacific filed an Entry of Appearance and Notice of Intervention (“Union Pacific’s Intervention”). Its Intervention does not contest the Application but sought to participate in any hearing on the Application based on its legally protected interests that may be affected by the Proceeding.³

4. Since Greeley initiated this matter more than four years ago, the Commission deemed the Application complete; preliminarily approved the proposed crossing modifications; acknowledged Greeley’s waiver of the statutory deadline for a final Commission decision to issue; required Greeley to submit a final Application for review and approval; implicitly acknowledged Union Pacific as a party; and ordered Union Pacific to file the schematic diagram and cost estimate⁴ for the proposed improvements by March 31, 2023.⁵

5. On August 8, 2025, Greeley filed “Applicant’s Request for Approval of Updated Final Plans and for Order Setting Deadliness for Certain UPRR Actions” with updated final crossing plans as Exhibit 1 (“Updated Plans”) and a cost estimate from Union Pacific that Greeley edited to reflect the Updated Plans as Exhibit 4.

6. On August 15, 2025, Greeley filed its “Amendment to Applicant’s Request for Approval of Updated Final Plans and for Order Setting Deadliness for Certain UPRR Actions.”

² See Application at 4; 8-10.

³ Union Pacific’s Intervention at 1.

⁴ The schematic diagram and cost estimate are also referred to as a front sheet and railroad estimate. See e.g., C23-0003 at 4 (issued January 4, 2023).

⁵ Decision Nos. C21-0655 at 4-5 (issued October 21, 2021); C22-0580 at 2 (issued September 28, 2022); C23-0003 at 3-5; and C23-0170-I at 3-4 (issued March 9, 2023).

7. On October 3, 2025, the Commission found that Greeley’s Updated Plans for the crossing do not comply with certain provisions in the Manual on Uniform Control Devices (“MUTCD”); noted that Union Pacific failed to comply with the Commission’s order requiring it to file the required cost estimate and design; and referred this matter to an administrative law judge (“ALJ”) to issue a decision on the Application as “expeditiously as possible” given that the Proceeding had been ongoing for four years “with a questionable end in sight.”⁶ The Commission also noted that it would be helpful for Staff to intervene in this matter to assist the parties in solving outstanding issues and provide the ALJ a complete record to work from in issuing a recommended decision.⁷

8. On October 13, 2025, Staff filed its Intervention.

II. FINDINGS AND CONCLUSIONS

A. Interventions

9. Per Rule 1401(e), 4 *Code of Colorado Regulations* (“CCR”) 723-1 of the Commission’s Rules of Practice and Procedure, Staff may intervene of right in any Commission proceeding. Any other person or entity wishing to intervene of right must identify the basis for the legally protected right that may be affected by the proceeding.⁸

10. Because Staff may intervene of right in any Commission proceeding, Staff is acknowledged as a party to this Proceeding.⁹

11. Although the ALJ can locate no Commission Decision explicitly acknowledging Union Pacific’s Intervention or Union Pacific as a party, the Commission implicitly acknowledges

⁶ Decision No. C25-0713 at 6-7 (issued October 3, 2025).

⁷ *Id.*

⁸ Rule 1401(b) and (e), 4 CCR 723-1.

⁹ *See* Rule 1401(e), 4 CCR 723-1.

Union Pacific's party status in several Decisions.¹⁰ To the extent necessary, and given the unique circumstances, the ALJ explicitly acknowledges Union Pacific as a party.

B. Remote Prehearing Conference

12. To move this matter forward, the ALJ will hold a fully remote prehearing conference as set forth in the ordering paragraphs below. During the prehearing conference, the ALJ will schedule an evidentiary hearing,¹¹ and establish filing deadlines for the following:

- an amended application (to reflect Greeley's modified request for relief based on to-be-filed newly updated plans);
- updated plans that comply with the MUTCD (to be filed by Greeley);
- Union Pacific's cost estimate and schematic design reflecting the above updated plans (to be filed by Union Pacific);
- settlement agreements;
- hearing exhibits;
- hearing exhibit and witness lists;
- joint witness examination matrix;
- prehearing motions;
- responses to prehearing motions (if the prehearing motions' deadline is less than 14 days before the first day of hearing); and
- statements of position.

13. During the prehearing conference, the ALJ may address other procedural matters relating to the evidentiary hearing, any other relevant matter, and any agreements the parties reach

¹⁰ See Decision Nos. C21-0665 at 2 and 4; C23-0003 at 4; C23-0170-I at 3-4; and C25-0713 at 4-7.

¹¹ It is currently unclear whether an evidentiary hearing will be necessary, but given how long this matter has been pending, the ALJ plans to schedule one during the prehearing conference to avoid further delay.

concerning discovery (*i.e.*, agreements to diverge from deadlines in the Commission's discovery rules).

14. Before the prehearing conference, the parties must confer on the above matters and be prepared to address those matters, including availability for an evidentiary hearing.

15. The parties will appear at the prehearing conference from remote locations by videoconference and may not appear in person for the prehearing conference. The remote prehearing conference will be held using the web-hosted service, Zoom. Attachment A hereto includes important technical information and requirements to facilitate holding the prehearing conference remotely. All those participating in the hearing must carefully review and follow all requirements in this Decision and Attachment A.

16. To minimize the potential that the videoconference hearing may be disrupted by non-participants, the link and meeting ID or access code to attend the hearing will be provided to the participants by email before the hearing, and the participants will be prohibited from distributing that information to anyone not participating in the hearing. Parties will receive an email with information needed to join the hearing at the email addresses on file with the Commission for this Proceeding. As such, it is important that all parties ensure that the Commission has the correct email address for them.

17. *All parties are on notice* that failure to appear at the prehearing conference may result in decisions adverse to their interests, including granting the complete relief opposing parties seek. The ALJ will deem any party's failure to appear at the prehearing conference to be a waiver of that party's objection to the rulings made during the prehearing conference.

18. If the parties file an acceptable proposed consensus procedural schedule by December 8, 2025, the prehearing conference will be vacated.¹²

III. ORDER

A. It Is Ordered That:

1. Consistent with the above discussion, Colorado Public Utilities Commission Trial Staff (“Staff”) and Union Pacific Railway Company (“Union Pacific”) are acknowledged as parties to this Proceeding.

2. A fully remote prehearing conference in this Proceeding is scheduled as follows:

DATE: December 11, 2025

TIME: 2:00 p.m.

PLACE: Join by videoconference using Zoom

3. Participants in the hearing may not distribute the hearing link, access, or ID code to anyone not participating in the hearing. Participants may not appear in person at the Commission for the above-scheduled hearing. Instead, they must participate in the hearing from remote locations, consistent with the requirements of this Decision.

4. All participants in the hearing must comply with the requirements in Attachment A to this Decision, which is incorporated into this Decision as if fully set forth.

5. The parties must confer with each other prior to the prehearing conference consistent with the above discussion. If the parties file an acceptable proposed consensus procedural schedule by December 8, 2025, the prehearing conference will be vacated.

¹² In this circumstance, if a written decision cannot issue before the prehearing conference, the ALJ will informally notify the parties via email that the prehearing conference is vacated.

6. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director