

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0482R

IN THE MATTER OF THE APPLICATION OF THE CITY OF LOUISVILLE, COLORADO
FOR THE AUTHORITY TO CONSTRUCT A PEDESTRIAN/BICYCLE UNDERPASS
CROSSING UNDER THE MAIN LINE OF THE BNSF RAILWAY AT MILEPOST 19.91
(DOT # PENDING) FRONT RANGE SUBDIVISION AT THE EXTENSION OF SOUTH
STREET, CITY OF LOUISVILLE, BOULDER COUNTY, COLORADO.

**COMMISSION DECISION DEEMING APPLICATION
COMPLETE AND GRANTING APPLICATION**

Mailed Date: July 7, 2014
Adopted Date: July 2, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the City of Louisville (Louisville) on May 15, 2014 requesting authority to construct a new pedestrian and bicycle underpass under the tracks and right-of-way of BNSF Railway Company (BNSF) at approximate railroad milepost 19.91 of the BNSF Front Range Subdivision, no current National Inventory Number, in Louisville, County of Boulder, State of Colorado.

2. Notice of the Application was provided by the Commission to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S., on May 20, 2014.

3. On June 19, 2014, BNSF filed an Entry of Appearance and Notice of Intervention as of Right. BNSF does not contest or oppose the Application.

4. The Commission 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. Now being fully advised in the matter, we grant the Application.

B. Findings of Fact

6. The Commission gave notice to all interested parties, including the adjacent property owners. No intervention was received opposing the Application.

7. Louisville proposes to construct a pedestrian and bicycle underpass under the BNSF in Louisville at the extension of South Street. The crossing will provide a safe crossing for pedestrians and bicycles at this location and will connect downtown Louisville to the Revitalization District.

8. The South Street pedestrian and bicycle underpass is proposed to be 43'-4" in width and 53.45' in length along the pedestrian and bicycle path. Louisville proposes to construct the underpass using a railroad truss plate girder structure that will provide a 25'-0" wide paved surface with 9'-0" vertical clearance for use by pedestrians and bicyclists. Chain link fence and decorative railing will be installed to prevent pedestrians and bicyclists from trespassing. The Commission Rules currently do not require any minimum heights or widths for underpass pedestrian structures.

9. Louisville states that there are approximately nine trains per day that currently use the tracks at the location of the proposed crossing at a maximum timetable speed of 49 miles per hour with no estimated changes in the near future. Louisville estimates 317 persons per day using the proposed pedestrian and bicycle grade separation.

10. Louisville proposes to start work around July 2014 with an estimated completion and in service date of August 2015. Louisville will be required to inform the Commission in

writing that the crossing work is complete and operational within ten days of completion. The Commission will expect this letter sometime around August 31, 2015. However, the Commission does understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

11. Louisville will be required to file a copy of the signed Construction and Maintenance Agreement with BNSF for this pedestrian underpass by July 30, 2014 prior to beginning construction on the crossing.

12. We will require BNSF to obtain a National Inventory Number for this new crossing and file a copy of the crossing inventory form for the new crossing in this proceeding. The Commission will expect this information to be filed with completion of the crossing work by August 31, 2015.

13. The estimated cost of construction for this project is \$2.5 million with Louisville funding the total cost of the construction.

C. Conclusions

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

15. No intervenor that filed a petition to intervene or other pleading contests or opposes the Application.

16. Because the Application is unopposed, the Commission finds that it will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 1403, 4 *Code of Colorado Regulations* 723-1 of the Commission's Rules of Practice and Procedure.

17. Based on the Findings of Fact, we find that good cause exists and that the requirements of public safety and necessity are met by granting the Application consistent with the above discussion.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the City of Louisville (Louisville) on May 15, 2014 requesting authority to construct a new pedestrian and bicycle underpass under the tracks and right-of-way of BNSF Railway Company (BNSF) at approximate railroad milepost 19.91 of the BNSF Front Range Subdivision, no current National Inventory Number, in Louisville, County of Boulder, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Intervention of BNSF is granted.

3. The Application is granted.

4. Louisville is authorized and ordered to proceed with the construction of the pedestrian and bicycle underpass of the South Street extension under the tracks of the BNSF as described in the Application.

5. Louisville shall file a copy of the signed Construction and Maintenance Agreement with the Commission by July 30, 2014 prior to beginning construction at the crossing.

6. Louisville shall inform the Commission in writing that the crossing work is complete and operational within ten days of completion. The Commission will expect this letter by August 31, 2015. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

7. BNSF will be required to obtain a National Inventory Number for the pedestrian crossing and file a copy of the crossing inventory in this proceeding showing the information for this crossing by August 31, 2015.

8. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

9. The Commission retains jurisdiction to enter further decisions as necessary.

10. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 2, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners