

Decision No. C14-0762

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0483R

IN THE MATTER OF THE APPLICATION OF THE TOWN OF JOHNSTOWN FOR
AUTHORITY TO CONSTRUCT A PATH ALONG THE WEST SIDE OF PARISH AVENUE
AND CROSSING TRACKS OWNED BY GREAT WESTERN RAILWAY, TOWN OF
JOHNSTOWN, WELD COUNTY, COLORADO.

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

Mailed Date: July 8, 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 Town of Johnstown (Johnstown) on May 15, 2014, requesting authority to construct a new pedestrian/bicycle path along the west side of Parish Avenue with the Great Western Railway Company (GWR), National Inventory No. 849350R in Johnstown, County of Weld, 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. No interventions were filed in this matter.

4. The Commission has 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. Johnstown requests authority to install a new 10' pedestrian and bicycle path on the west side of the existing Parish Avenue at-grade crossing. Johnstown states that non-motorized users currently must use the narrow, unpaved shoulders to cross the GWR tracks, creating an unsafe condition. The pathway will provide a defined location for pedestrians and bicyclists to cross the GWR tracks.

8. Johnstown proposes that the path be detached at the crossing to move behind the existing flashing lights and gates at the crossing, and attached along the remainder of Parish Avenue north and south of the crossing. The pathway will be constructed of asphalt and a concrete crossing surface will be installed at the tracks. No changes are proposed to the existing active warning signals at the crossing.

9. Johnstown states that GWR currently runs two trains per day through the crossing at a maximum timetable speed of 35 miles per hour (MPH) with no estimated increase in the near future. The 2009 traffic count at the crossing was 1,640 vehicles per day using the crossing at a posted speed limit of 45 MPH with a projected increase to 7,480 by 2035.

10. The estimated cost of the proposed crossing improvements is \$698,087 with \$32,400 of this estimate consisting of railroad related work for the path crossing. Johnstown will be responsible for all project costs.

11. Johnstown proposes to start construction in August 2014 and be complete by October 2014.

12. Johnstown will be required to inform the Commission in writing that the path is complete and operational within ten days of completion. The Commission will expect this letter by October 31, 2014. 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.

13. We will also require Johnstown to file a copy of the signed Construction and Maintenance Agreement with the Commission by July 31, 2014 prior to the start of any construction work at the crossing.

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, Commission Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

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 Town of Johnstown (Johnstown) on May 15, 2014, requesting authority to construct a new pedestrian/bicycle path along the

west side of Parish Avenue with the Great Western Railway Company (GWR), National Inventory No. 849350R in Johnstown, County of Weld, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application is granted.

3. Johnstown is authorized and ordered to proceed with the construction of a new asphalt path crossing on the west side of Parish Avenue with the GWR as shown on the plans attached to the Application.

4. Johnstown shall be required to file a copy of the signed Construction and Maintenance Agreement with the Commission by July 31, 2014 prior to the start of any construction work at the crossing.

5. Johnstown shall inform the Commission in writing that the new pedestrian/bicycle path is installed and operational within ten days of completion. The Commission will expect this letter by October 31, 2014. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

6. 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.

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

8. 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

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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners