

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-1096R

APPLICATION FOR MODIFICATION OF AN EXISTING AT-GRADE CROSSING 1ST STREET IN WINDSOR, COLORADO, U.S. DOT # 244897K GREELEY SUBDIVISION MP-86.94.

**COMMISSION DECISION DEEMING
APPLICATION INCOMPLETE AND DISMISSING
APPLICATION WITHOUT PREJUDICE**

Mailed Date: December 24, 2014

Adopted Date: December 22, 2014

I. BY THE COMMISSION

A. Statement, Findings, and Conclusion

1. This matter comes before the Commission for consideration of an application (Application) filed by the Great Western Railway Company (GWRR) on November 13, 2014, requesting authority to install a siding track and new concrete crossing surfaces for both tracks at the crossing of 1st Street with the tracks of the GWRR Greeley Subdivision at railroad mile post 86.94, National Inventory No. 244897K, in the Town of Windsor, County of Weld, State of Colorado.

2. The Commission gave notice of this Application (Notice) to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S. The Notice was mailed on November 17, 2014.

3. On November 14, 2014, Staff of the Commission issued a Deficiency Letter pursuant to Rule 1303(c)(II) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1. The Deficiency Letter advised GWRR that pursuant to

Rule 4 CCR 723-7-7204(c)(IX) of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, the Application did not contain a statement describing the type of crossing warning devices proposed to be installed as part of the instant Application and requested that GWRR provide information about either when the referenced Application of the Town of Windsor would be filed, or what GWRR would propose as warning devices for the instant Application.

4. Rule 1303(c)(II), 4 CCR 723-1, states that upon receipt of a deficiency letter, "the applicant may file a response either curing all the deficiencies noted by Commission staff or explaining why it believes no further action is required." This response "shall be filed no later than ten days after Commission staff's written notification was sent." *Id.* "If the applicant does not respond in the time allotted, the Commission may, after the application's notice period has expired, deem the application incomplete, dismiss the application without prejudice, and close the proceeding." *Id.*

5. The Deficiency Letter was sent to GWRR on November 14, 2014. Therefore, the ten-day period allotted for curing the deficiencies expired on November 24, 2014.

6. GWRR has not filed a response or the requested information.

7. Due to the foregoing, we deem the Application incomplete and dismiss the Application without prejudice.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the Great Western Railway Company (GWRR) on November 13, 2014, requesting authority to install a siding track and new concrete crossing surfaces for both tracks at the crossing of 1st Street with the tracks of the GWRR

Greeley Subdivision at railroad mile post 86.94, National Inventory No. 244897K, in the Town of Windsor, County of Weld, State of Colorado, is deemed incomplete, within the meaning of § 40-6-109.5, C.R.S., and Rule 1303(c) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, and is dismissed without prejudice.

2. This proceeding is closed.

3. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails or serves this Decision.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 22, 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