

(Decision No. R94-633)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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APPLICATION OF THE CITY OF)
ARVADA, COLORADO, FOR AUTHORITY)
TO CONSTRUCT RALSTON ROAD SO AS)
TO PROVIDE A GRADE SEPARATION OF)
THE ROADWAY IN THE TRACKS OF THE)
BURLINGTON NORTHERN RAILROAD)
COMPANY; FOR AUTHORITY TO)
RECONSTRUCT THE EXISTING)
RAILROAD BRIDGE ACROSS RALSTON)
CREEK; AND FOR AUTHORITY TO)
CONSTRUCT A TEMPORARY RAILROAD)
BRIDGE ACROSS RALSTON CREEK FOR)
USE DURING RECONSTRUCTION OF THE)
EXISTING RAILROAD BRIDGE; AND)
THE CITY OF ARVADA, JEFFERSON)
COUNTY, COLORADO.)

DOCKET NO. 93A-606R

RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
KEN F. KIRKPATRICK

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Mailed Date: May 27, 1994
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STATEMENT

This application was filed on November 1, 1993, and the Commission gave notice of it on November 8, 1993. Interventions were filed by the Staff of the Commission on November 8, 1993, and by the Burlington Northern Railroad Company (Burlington) on December 3, 1993.

By order and notice of hearing dated January 26, 1994, the matter was set for a hearing to be held on March 15, 1994, at 9:00 a.m. in a Commission hearing room in Denver, Colorado. By Decision No. R94-251-I, March 10, 1994, the hearing was vacated and the parties ordered to file a final stipulation and construction and maintenance agreement no later than April 15, 1994, or in the alternative, a status report. A status report was filed on April 18, 1994, indicating progress towards finalization of the stipulation and construction and maintenance agreement, with the final stipulation to be filed no later than May 20, 1994.

On May 18, 1994, Applicant, Burlington, and the Staff filed a Stipulation and Joint Motion for Determination of Application Without Formal Hearing. Attached to that stipulation and joint motion is the agreement between the City of Arvada and Burlington for construction and maintenance of the Ralston Road grade separation project as well as construction plans. The parties to

the proceeding request that the application be granted in accordance with the agreement and construction plan submitted.

The public interest and the public health, safety, and welfare require that the proposed application be granted. The completion of the project proposed in the application will prevent accidents and promote the public safety. The application should be granted in accordance with the stipulation, and the costs allocated as set forth in the agreement.

In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

ORDER

THE COMMISSION ORDERS THAT:

1. Docket No. 93A-606R, being an application of the City of Arvada, Colorado, is granted. The City of Arvada is authorized to construct Ralston Road so as to provide a grade separation of the roadway and the tracks of the Burlington Northern Railroad Company; to construct a temporary railroad bridge across Ralston Creek for use during reconstruction of the existing railroad bridge; and to reconstruct the existing railroad bridge across Ralston Creek. All of the above projects shall be performed, and the costs of the projects allocated, in accordance with the agreement entered into between the City of Arvada and the Burlington Northern Railroad Company and the construction plans attached to the stipulation filed May 18, 1994.

2. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

3. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

- a. IF NO EXCEPTIONS ARE FILED WITHIN 20 DAYS AFTER SERVICE OR WITHIN ANY EXTENDED PERIOD OF TIME AUTHORIZED, OR UNLESS THE DECISION IS STAYED BY THE COMMISSION UPON ITS OWN MOTION, THE RECOMMENDED DECISION SHALL BECOME THE DECISION OF THE COMMISSION AND SUBJECT TO THE PROVISIONS OF § 40-6-114, C.R.S.
- b. IF A PARTY SEEKS TO AMEND, MODIFY, ANNUL, OR REVERSE BASIC FINDINGS OF FACT IN ITS EXCEPTIONS, THAT PARTY MUST REQUEST AND PAY FOR A TRANSCRIPT TO BE FILED, OR THE PARTIES MAY STIPULATE TO PORTIONS OF THE TRANSCRIPT ACCORDING TO THE

PROCEDURE STATED IN § 40-6-113, C.R.S. IF NO
TRANSCRIPT OR STIPULATION IS FILED, THE COMMISSION
IS BOUND BY THE FACTS SET OUT BY THE
ADMINISTRATIVE LAW JUDGE AND THE PARTIES CANNOT
CHALLENGE THESE FACTS. THIS WILL LIMIT WHAT THE
COMMISSION CAN REVIEW IF EXCEPTIONS ARE FILED.

4. If exceptions to this Decision are filed, they shall
not exceed 30 pages in length, unless the Commission for good
cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Administrative Law Judge

KFK:srs