Colorado Public Utilities Commission
Rules for Railroad-Highway
Grade Separation Applications

1.0 Statement of Basis and Purpose.

The basis and purpose of Rules 2.0 through 5.2 is that the Commission has no current rules governing applications for railroad-highway grade separations due to the fact that the former rules governing applications for railroad-highway grade separations were repealed as a result of the enactment into law of Senate Bill 123 on April 21, 1986, which repealed previously existing rules which had been established to comply with House Bill 1569 which had been enacted by the General Assembly in 1983.

On April 21, 1986, the Governor of the State of Colorado signed into law Senate Bill 123 (S.B. 123). S.B. 123 eliminates the annual application procedure previously established by H.B. 1569. Thus, the Commission is no longer required to consolidate a list in order of priority of individual grade separation construction projects, but retains its authority to approve or disapprove individual projects and to allocate the funding of individual projects. These rules implement the information required for a railroad-highway grade separation project and set forth the minimum criteria for grade separation cost allocation in order to implement S.B. 123. The specific statutory authority for the adoption of these rules is § 40-2-108, C.R.S.

2.0 Applicability of Rules.

2.1 For railroad-highway grade separation projects for which contribution from a railroad corporation or corporations is requested, the Applicant shall submit the information required at paragraph 2.2 of these rules in addition to that required by Rule 51(c)(3) of the Commission's Rules of Practice and Procedure.

2.2 Where contribution from one or more railroad corporations is requested for the separation of grades under these rules, the applicant shall include the following information:

2.21 A complete description of the scope of the actual proposed separation project.

2.22 A preliminary set of construction plans including engineering costs.

2.23 A preliminary engineer's cost estimate including engineering costs.

2.24 Estimated costs of right-of-way, parcel by parcel, including railroad right-of-way.

2.25 Proposed construction timetable.

2.26 A list of affected railroad corporations.

2.27 Preliminary design of a theoretical structure for a reasonably adequate facility as defined in paragraph 4.0 of these rules.

2.28 A cost estimate of the theoretical structure submitted in paragraph 2.2 above, including costs as required in 2.23 and 2.24 above.

3.0 Minimum criteria for grade separation cost allocation

For a railroad-highway grade separation application to be considered for cost allocation under these rules, the following minimum criteria shall be met:

3.1 The term exposure factor means average daily traffic (ADT) times the average daily number of train movements.

3.2 Exposure factor, actual or projected, shall exceed 75,000 at urban locations and 35,000 at rural locations.

3.3 The roadway shall be a collector, arterial, or freeway with an actual or projected traffic volume of 5,000 ADT or greater for urban locations and 2,500 ADT or greater for rural locations.

3.4 The terms collector, arterial, and freeway are defined by Volume 20, Appendix 12, Highway Functional Classification, published by the U.S. Department of Transportation, dated July 1974. These definitions are incorporated into this rule. This reference does not include later amendments to or editions of the incorporated material. Information may be obtained regarding how the incorporated material may be examined or obtained, from the Chief of Transportation, Colorado Public Utilities Commission, Office Level One, 1580 Logan Street, Denver, Colorado 80203.

3.5 Any rail lines shall have an actual or projected volume of four train movements per day or greater.

3.6 Other locations may be considered by the Commission if warranted by unusual conditions or circumstances.

4.0 Reasonably Adequate Facilities.

Unless demonstrated by substantial evidence, reasonably adequate facility will be defined as follows:

4.1 Rural collector roadway will allow for two 12-foot travel lanes with two 5-foot shoulders.

4.2 Rural arterial roadway will allow for two 12-foot travel lanes with two 8-foot shoulders and an 8-foot pedestrian-bikeway.

4.3 Urban collector roadway will allow for two 12-foot travel lanes with two 10-foot parking lanes and an 8-foot pedestrian-bikeway.

4.4 Urban arterial roadway will allow for four 12-foot travel lanes with an 11-foot median and an 8-foot pedestrian-bikeway on one side.

4.5 Single main line track will allow for mainline track, one passing tract on 15-foot centers and a 12-foot maintenance road or a 4-foot walkway on one side.

4.6 Double mainline track will allow for two mainline tracks and one passing track on 15-foot centers and a 12-foot maintenance road or a 4-foot walkway on one side.

4.7 Railroad yards or terminals will allow for currently existing track and service facilities.

5.0 Cost Allocation for Grade Separation.

5.1 Upon receipt of an application for a railroad grade-separation project, meeting the criteria at subsections 3.1, 3.2, 3.3, 3.4, 3.5, and 3.6, of these rules, the Commission may allocate the costs of right-of-way acquisition, engineering, and construction of the minimum project which separates a reasonably adequate road-way facility from a reasonably adequate railroad facility in the following way: 50 percent of the cost to be borne by the railroad corporation or railroad corporations and 50 percent of the cost to be borne by the State, County, Municipality, or public authority in interest. However, the Commission may impose a different allocation if demonstrated by substantial evidence of benefit and need.

5.2 Replacement or realignment of existing grade separations may be treated as if there were an at-grade crossing necessary for separation under this rule.

Fiscal Impact Statement for Colorado Public Utilities Commission Rules For Railroad-Highway Grade Separation Applications

I. Requirement of Fiscal Impact Statement - Determination of Fiscal Impact.

The provisions, administration, or enforcement of the rules and regulations for railroad-highway grade separation applications will not result in any increased revenues to or expenditures by any agencies or political subdivisions of the State, because there are no fees, charges, or other fiscal requirements in these rules.

The adopted rules state an allocation formula for grade separations, but also provide that the Commission may impose a different allocation if it is demonstrated by substantial evidence of benefit and need to be appropriate. However, no fiscal impact in terms of any increased or decreased revenues to or expenditures by any agencies or political subdivisions or the State, will occur from the rules, because the rules establish an allocation of costs for grade separations, which costs will be allocated in any event. The rules will have no spillover effect and the only direct costs which could possibly be associated with the rules would be an allocation of costs for grade separations.

II. Costs and Benefits to Persons or Groups Affected by Rule.

The types of persons, or groups (in addition to the State and any of its political subdivisions) who will bear the costs of the rule and the types of the persons or groups who will benefit from the rule will be the railroad corporations and the State, County, Municipality, or other public authority who would be subject to a cost allocation under the rule. Moreover, the rule only sets forth a formula which may be used for determining this allocation.