

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-473R

IN THE MATTER OF THE APPLICATION OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY FOR AUTHORITY TO REMOVE CROSSING WARNING DEVICES AT WINTERS AVENUE/DRIVE, DOT #003565B AND MOUNT VIEW LANE, DOT #003566H, ON BNSF'S CONNECTING TRACK, LS 7304, IN COLORADO SPRINGS, COLORADO

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
ANTHONY M. MARQUEZ
SETTING PREHEARING CONFERENCE**

Mailed Date: December 10, 2004

I. STATEMENT

1. This docket concerns the application by the Burlington Northern and Santa Fe Railway Company (BNSF or Applicant) for authorization to remove the crossing warning devices at Winters Avenue/Drive, DOT No. 003565B, and Mount View Drive, DOT No. 003566H. BNSF filed the application on September 17, 2004.

2. The City of Colorado Springs, Colorado intervened in this case on October 29, 2004.

3. The Commission assigned this matter to an Administrative Law Judge (ALJ) for hearing and disposition at its November 10, 2004 Weekly Meeting.

4. On December 8, 2004, the ALJ requested that the parties advise him of their availability for a prehearing conference. Responses to the ALJ's request indicate that the parties are available for a prehearing conference on January 7, 2005. Therefore, this order schedules such a conference on that date.

5. The prehearing conference will deal with all issues contemplated by Rule 79(b)(5), Commission Rules of Practice and Procedure,¹ and any related matters. This includes without limitation: identification of issues to be addressed in this proceeding; resolution of any pending motions; the timing and scope of discovery; the desirability of submitting testimony and exhibits in written form prior to hearing; and the establishment of a procedural schedule, including hearing dates and deadlines for the filing of direct, answer, and rebuttal testimony and exhibits, and closing statements of position.

6. The parties are encouraged to confer prior to the prehearing conference in an attempt to reach agreement on a procedural schedule that will result in completion of hearing in this matter no later than April 30, 2005.

II. ORDER

A. It Is Ordered That:

1. A prehearing conference is scheduled in this matter as follows:

DATE: January 7, 2005
TIME: 10:00 a.m.
PLACE: Commission Hearing Room
1580 Logan Street, OL 2
Denver, Colorado

The parties shall come prepared to discuss those matters specified above.

2. This Order is effective immediately.

¹ 4 Code of Colorado Regulations 723-1.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge