

Decision No. C14-0058

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-1257R

IN THE MATTER OF THE APPLICATION OF THE REGIONAL TRANSPORTATION DISTRICT, UNION PACIFIC RAILROAD COMPANY, AND BNSF RAILWAY COMPANY, FOR AUTHORITY TO ALTER AN AT-GRADE CROSSING AT TENNYSON STREET (U.S.DOT #253282S AND #244772K) IN ADAMS COUNTY, STATE OF COLORADO.

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

Mailed Date: January 17, 2014

Adopted Date: January 15, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed jointly by the Regional Transportation District (RTD), the Union Pacific Railroad Company (UPRR), and the BNSF Railway Company (BNSF) (collectively Joint Applicants) on November 27, 2013, requesting authority to construct two new commuter rail tracks north of the existing UPRR and BNSF freight tracks for RTD with new crossing surface panels; installation and upgrade of active warning devices including flashing lights, cantilever flashing light signals, bells, and four quadrant gates with exit gate vehicle detection loops for both northbound and southbound traffic and detection circuitry equipment; installation of vehicular signage; and realignment of existing sidewalk, installation of pedestrian channelization, pedestrian swing gates, detectable warning panels, "Another Train Coming" blank out signs facing both north and south in all four quadrants of the crossing, and pedestrian related signage at the crossing of Tennyson Street with the BNSF Golden Branch and

UPRR Moffat Tunnel Subdivision, National Inventory Nos. 244772K for the BNSF crossing and 253282S for the UPRR crossing, in the County of Adams, State of Colorado. Pursuant to Federal Railroad Administration regulations requiring a single crossing number per crossing, National Inventory No. 253282S will be retained as the crossing number for the entire crossing, and BNSF National Inventory No. 244772K will be removed.

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 December 6, 2013.

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. The Commission has jurisdiction in this matter under §§ 40-4-106(2)(a) and (3)(a), C.R.S.

6. Now being fully advised in the matter, we grant the Application.

B. Findings of Fact

7. The Commission gave notice to all interested parties, including the adjacent property owners. No interventions were received opposing the Application.

8. The Joint Applicants seek authority to construct two new commuter rail tracks north of the BNSF and UPRR freight tracks for RTD with new crossing surface panels; installation and upgrade of active warning devices including flashing lights, cantilever flashing light signals, bells, and four quadrant gates with exit gate vehicle detection loops for both northbound and southbound traffic and detection circuitry equipment; installation of vehicular signage; and realignment of existing sidewalk, installation of pedestrian channelization,

pedestrian swing gates, detectable warning panels, “Another Train Coming” blank out signs facing both north and south in all four quadrants of the crossing, and pedestrian related signage at the Tennyson Street crossing in Adams County.

9. The grade of the track into the crossing for the proposed commuter rail tracks is at 0.42 percent. The roadway grade along Tennyson Street is not proposed to change over the BNSF or UPRR tracks. The Joint Applicants propose grades between the freight tracks and the commuter rail tracks at 0.00 percent transitioning to 0.78 percent across the commuter rail tracks and transitioning to 0.83 percent down north of the crossing.

10. The Joint Applicants state that there are currently 3,464 vehicles per day (VPD) using Tennyson Street at a posted speed limit of 30 miles per hour (MPH). These volumes are projected to increase to 4,800 VPD in five years, 5,700 VPD in ten years, and 7,000 VPD by the year 2030. There are currently 14 daily train movements on the UPRR tracks at a maximum timetable speed of 65 MPH for passenger traffic and 45 MPH for freight traffic, and 3 daily train movements on the BNSF freight track operating at a maximum timetable speed of 20 MPH with no projections for future change at this time. The commuter rail train service is scheduled to open for revenue service in 2016. At that time, RTD projects there will be approximately 134 commuter rail train movements through the crossing operating at a maximum timetable speed of 60 MPH. Commuter rail train movements are not expected to change significantly in the future.

11. The Joint Applicants state that a grade separation at this location is not practicable because either raising or lowering the roadway over or under the tracks would have a detrimental effect to vehicular connectivity in the area including business and property access concerns.

The Joint Applicants also state that raising or lowering the tracks over or under the roadway is not practicable because of the nearby stations and because of low vehicle traffic volumes.

12. The Joint Applicants propose to install active warning devices that will consist of a four-quadrant gate system with vehicle detection loops proposed to be installed between the entrance gates, tracks, and exit gates. These vehicle detection loops will operate such that the exit gates will remain in the upright position until no vehicles are detected between the entrance and exit gates ensuring that no vehicles on Tennyson Street will be trapped on the tracks between the vehicle entrance and exit gates.

13. The Joint Applicants propose to install pavement markings on the northbound and southbound travel lanes approaching the Tennyson Street crossing.

14. The Joint Applicants propose installing advance warning signs on northbound and southbound Tennyson Street (W10-1). A quiet zone designation will be sought at this crossing from the Federal Railroad Administration. The Joint Applicants propose to install W10-9P “No Train Horn” signs at all of the advance warning sign locations; however, these signs would not be installed until implementation of the quiet zone. The Joint Applicants also propose installing “Do Not Stop on Tracks” (R8-8) signs at the stop bar locations on both sides of the crossing. Finally, the Joint Applicants propose to install crossbuck signs (R15-1) with the “5 Tracks” designation (R15-2P) on the flashing light and gate assemblies for the vehicle gates.

15. Sidewalk will be realigned by the commuter rail tracks. The Joint Applicants propose to install pedestrian channelization fencing, detectible warning panels, and pedestrian swing gates at each of the pedestrian entrances into and between the various tracks on both sides of the crossing for a total of 12 pedestrian swing gates. The Joint Applicants propose to install “Another Train Coming” blank out signs. The Joint Applicants also propose to install

“Pedestrian Stop Here When Flashing” (R8-10a Special) signs at each detectible warning panel location and “Pull to Open” and “Push to Open” signs on the appropriate side of each swing gate. While we do not have an issue with the proposed signs per say, we are starting to see different signs proposed on the different RTD corridors that are to be providing the same message to pedestrians. We requested that RTD work with Commission Staff and affected jurisdictions to review the pedestrian signage and develop standards for such signage by Decision No. C13-0318 in Proceeding No. 13A-0054R issued March 14, 2013. Should RTD develop signage standards that are different from what are proposed in the Application, we will allow the proposed pedestrian signage to be changed at this crossing to be consistent with RTD’s new standards without further review or approval needed from the Commission. We will require an updated signing plan to be filed in this proceeding, if necessary, showing any pedestrian signage changes so we have an accurate record of the pedestrian signage installed at the crossing.

16. The Joint Applicants estimate the project costs at \$1,050,894 for the RTD crossing work and \$556,103 for UPRR related crossing work. The RTD FasTracks program is responsible for all construction costs.

17. The Joint Applicants propose to start construction upon approval of the Application and have construction completed within three years. The Joint Applicants will be required to inform the Commission in writing that all of the roadway, track, signal, and civil work are complete and operational within ten days of completion. The Commission will expect this letter no later than March 31, 2016. 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. We will also require the Joint Applicants to update the inventory forms for this crossing showing the crossing changes and movement of BNSF track information to the

UPRR National Inventory Number and to file copies of the updated U.S. DOT crossing inventory forms in this proceeding by March 31, 2016.

18. Tennyson Street will only be closed temporarily once to perform track construction, civil and roadway improvements, and installation of the new active warning equipment and vehicle detection loops.

19. Because RTD will be performing work on a design-build basis, they request a special application procedure. With a design-build process, design and construction can sometimes be performed concurrently, meaning that the design plans submitted with this Application may not be what is finally constructed. RTD proposes that it be allowed construction design tolerances from the plans as submitted such that they be allowed to stay within applicable clearance requirements contained in the Commission Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* (CCR) 723-7. If the final design includes a reduction or reductions in clearance from those outlined in the Commission's Rules, RTD would file a motion to permit the variance. Additionally, if the final design includes an improvement or improvements that were not originally applied for, or fails to include an improvement or improvements originally applied for, RTD would amend the Application to make the appropriate changes. RTD would not modify the applicable improvement or construct the additional improvement, or fail to construct any improvements before any required motion or amendment has been granted by the Commission. Joint Applicants BNSF and UPRR do not object to the special application procedure for the separate RTD elements of the crossing construction.

20. We will allow the proposed special application procedure as outlined by RTD. We will require that RTD file a copy of the final plans for the crossing once construction is

complete so that the Commission has an accurate record showing what was constructed at the crossing. We will expect these final plans to be filed with the Commission at the end of construction by March 31, 2016.

21. Unless otherwise stated in the uncontested Application, Rules 7211(a), 7211(c), and 7301(a) will govern the parties' obligations with respect to all crossing surface costs and all costs of crossing warning devices. As stated in the uncontested Application, BNSF will continue to maintain all BNSF railroad track and appurtenances within its right-of-way, UPRR will continue to maintain all UPRR railroad track and appurtenances within its right-of-way in addition to all active warning devices within its and BNSF's right-of-way with the exception of the blank-out signs. RTD will maintain all RTD railroad track, appurtenances, and warning devices, including all exit gate vehicle detection loops, blank out signs, pedestrian swing gates, pedestrian signage, and channelizing fencing outside of the RTD right-of-way. Adams County will continue to maintain its roadway after construction is completed, including the approaches to the crossing, in line with applicable Commission Rules.

C. Conclusions

22. The Commission has jurisdiction in this matter under §§ 40-4-106(2)(a) and (3)(a), C.R.S.

23. No intervenor that filed a petition to intervene or other pleading contests or opposes the construction of the new crossing and active warning equipment.

24. Because the Application is unopposed, the Commission 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 CCR 723-1.

25. Based on the Findings of Fact, the Application is granted consistent with the above discussion.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed jointly by the Regional Transportation District (RTD), the Union Pacific Railroad Company (UPRR), and the BNSF Railway Company (BNSF) (collectively Joint Applicants) on November 27, 2013, requesting authority to construct two new commuter rail tracks north of the existing UPRR and BNSF freight tracks for RTD with new crossing surface panels; installation and upgrade of active warning devices including flashing lights, cantilever flashing light signals, bells, and four quadrant gates with exit gate vehicle detection loops for both northbound and southbound traffic and detection circuitry equipment; installation of vehicular signage; and realignment of existing sidewalk, installation of pedestrian channelization, pedestrian swing gates, detectable warning panels, “Another Train Coming” blank out signs facing both north and south in all four quadrants of the crossing, and pedestrian related signage at the crossing of Tennyson Street with the BNSF Golden Branch and UPRR Moffat Tunnel Subdivision, National Inventory Nos. 244772K for the BNSF crossing and 253282S for the UPRR crossing, in the County of Adams, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application is granted.

3. The special application procedure proposed by RTD is approved.

4. The Joint Applicants are authorized and ordered to proceed with construction of two new commuter rail tracks north of the BNSF and UPRR freight tracks for RTD with new crossing surface panels; installation and upgrade of active warning devices including flashing

lights, cantilever flashing light signals, bells, and four quadrant gates with exit gate vehicle detection loops for both northbound and southbound traffic and detection circuitry equipment; installation of vehicular signage; and realignment of existing sidewalk, installation of pedestrian channelization, pedestrian swing gates, detectable warning panels, “Another Train Coming” blank out signs facing both north and south in all four quadrants of the crossing, and pedestrian related signage at the Tennyson Street crossing in Adams County, Colorado.

5. The Joint Applicants are required to inform the Commission in writing that the crossing changes are complete and operational within ten days after completion. We shall expect this letter by March 31, 2016. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

6. The Joint Applicants are required to update the U.S. DOT inventory forms showing the crossing changes and to file copies of the updated forms in this proceeding by the end of construction on March 31, 2016.

7. RTD shall file a complete set of plans for the constructed crossing by March 31, 2016.

8. 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.

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

10. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 15, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners