

Decision No. C14-0785

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 14A-0203R

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IN THE MATTER OF THE APPLICATION OF WASHINGTON COUNTY FOR AUTHORITY TO CONVERT AN AT GRADE PRIVATE CROSSING TO AN AT GRADE PUBLIC CROSSING OF THE BURLINGTON NORTHERN SANTA FE RAILWAY LOCATED IN WASHINGTON COUNTY, COLORADO ON A SECTION LINE BETWEEN SECTIONS 8 & 9, TOWNSHIP 2 NORTH, RANGE 51 WEST AT OR NEAR AKRON, COLORADO.

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**COMMISSION DECISION GRANTING  
MOTION TO WITHDRAW APPLICATION WITHOUT  
PREJUDICE AND DENYING INTERVENTION  
AND REQUEST FOR HEARING AS MOOT**

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Mailed Date: July 11, 2014

Adopted Date: July 9, 2014

**I. BY THE COMMISSION**

**A. Statement**

1. This matter comes before the Commission for consideration of a Motion to Withdraw Application (Washington County Motion) without prejudice, filed on June 10, 2014 by Washington County. This matter also comes before the Commission for consideration of BNSF Railway's (BNSF) Partial Opposition to Application and Request for Hearing filed by BNSF Railway (BNSF Opposition), filed on June 25, 2014.

2. As grounds for the Washington County Motion, Washington County states that it has been negotiating the details of the crossing at-grade modifications, but that negotiations are taking longer than anticipated. Given that the Commission has already granted two Unopposed Motions for Extension to Time to Oppose Application and Request Hearing filed by BNSF, Washington County believes it would be more efficient for the Application to be withdrawn and refiled after the parties have finalized their negotiations.

3. Commission Rule 4 *Code of Colorado Regulations* 723-1-1309(d) allows for the withdrawal of an application or petition upon notification to the Commission and all parties prior to 45 days before the first day of hearing.

4. We find good cause to grant the Washington County Motion without prejudice. The subject Application has not been deemed complete and no hearing date has been set, Washington County is well within the 45 days in which to withdraw its Application.

5. Given our ruling on the Washington County Motion and the date of the withdrawal of the Application, the BNSF Opposition is denied as moot as there is no Application to oppose.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The Motion to Withdraw Application without prejudice filed by Washington County is granted.

2. The BNSF Partial Opposition to Application and Request for Hearing filed by BNSF Railway Company is denied as moot.

3. Proceeding No. 14A-0203R is closed.

4. 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.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING**

**July 9, 2014.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JOSHUA B. EPEL

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PAMELA J. PATTON

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GLENN A. VAAD

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Commissioners