

Decision No. C14-0786

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0521R

IN THE MATTER OF EL PASO COUNTY BY AND THROUGH THE BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO, BY AND THROUGH ITS EL PASO COUNTY PUBLIC SERVICES DEPARTMENT EXECUTIVE DIRECTOR FOR AUTHORITY TO CONSTRUCT AN OVERPASS BRIDGE OVER TRACKS AND RIGHT-OF-WAY OWNED BY THE UNION PACIFIC RAILROAD TO REPLACE THE EXISTING AT-GRADE CROSSING TO BE REMOVED AT BAPTIST ROAD IN EL PASO COUNTY COLORADO.

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

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 an application (Application) filed by the County of El Paso (El Paso County) on May 22, 2014, seeking authority to replace the at-grade crossing with a grade separation structure at the existing crossing of Baptist Road with the tracks of the Union Pacific Railroad Company (UPRR) at UPRR railroad milepost 58.40 of the Joint Line, National Inventory No. 253077L, in El Paso County, State of Colorado.

2. Notice of the Application was provided by the Commission to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S., on May 28, 2014.

3. On June 19, 2014, UPRR filed an Entry of Appearance and Notice of Intervention as of Right. UPRR does not contest or oppose the Application.

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

B. Findings of Fact

6. The Commission gave notice to all interested parties, including the adjacent property owners. No intervention was received opposing the Application.

7. El Paso County proposes to replace the existing at-grade crossing of Baptist Road with the UPRR tracks at approximate railroad milepost 58.40 on the Joint Line with a grade separation structure. The crossing in question is the only entry and exit point to the Twin Valley and Forest Lakes Subdivisions and the anticipation of additional residential and commercial development in this area. The at-grade crossing in question experiences periods of occupation by stopped or slow moving trains inhibiting access into the area. To improve safety and mobility to this area, El Paso County seeks to replace the existing at-grade, active warning controlled crossing with a grade separation structure over the railroad tracks. The at-grade crossing and active warning devices would be removed once the grade separation is in operation.

8. The bridge structure over the UPRR tracks is proposed to be a three-span structure with tracks located under Span 3. The total length of the bridge structure from abutment to abutment is 438'-4" with the length of Span 3 at 144'-10", which will clear span the UPRR right-of-way. The minimum vertical clearance from the top of rail to the bottom of the structure is 23'-6". The minimum horizontal clearance from the centerline of track to the face of a bridge abutment is 63'-11 7/8". The proposed minimum clearances meet or exceed the clearances required by Commission Rules 4 *Code of Colorado Regulations* (CCR) 723-7-7324

and 7325 of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings.

9. The proposed bridge structure over the UPRR tracks varies from 53'-6" to 62'-0" out to out and will accommodate two 12'-0" travel lanes, one 8'-0" shoulder, one shoulder that varies in length, one 10'-6" sidewalk, and two 1'-6" Type 7 bridge rails with 92' chain link fence along the span over the UPRR tracks on each side of the bridge structure.

10. El Paso County states that the vehicle traffic using the at-grade crossing was 470 vehicles per day (VPD) in 2012 traveling at a posted speed limit of 40 miles per hour (MPH) with traffic volumes projected at 7,800 VPD in 10 years and 10,600 VPD in 20 years. El Paso County states that there are currently 30 freight train movements per day that use the existing crossing at a maximum timetable speed of 45 MPH with no estimates of growth provided at this time.

11. El Paso County proposes to start construction in September 2014 and be complete with the bridge structure by March 2015 and the remainder of the project construction by September, 2015. El Paso County will be required to inform the Commission in writing that construction of the new grade separated structure is complete and the at-grade crossing surface and active warning devices have been removed within ten days of completion. The Commission will expect this letter by September 30, 2015. 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. El Paso County shall also be required to file a signed copy of the Construction and Maintenance Agreement for the new bridge structure prior to the start of construction. We will expect this agreement to be filed by August 30, 2014 and expect that construction at the crossing will not begin until the agreement has been filed.

12. We will require UPRR to update the crossing inventory form for the bridge structure and to file a copy of this updated form in this proceeding at the end of the project by September 30, 2015.

13. El Paso County estimates the cost of the entire project at \$9,943,660 with the cost of right-of-way and the bridge structure over the UPRR tracks at \$2,830,180 and \$15,840 for railroad flagging costs.

C. Conclusions

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

15. No intervenor that filed a petition to intervene or other pleading contests or opposes the Application.

16. Because the Application is unopposed, the Commission finds that it will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 1403, 4 CCR 723-1 of the Commission's Rules of Practice and Procedure.

17. Based on the Findings of Fact, we find that good cause exists and that the requirements of public safety and necessity are met by granting the Application consistent with the above discussion.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the County of El Paso (El Paso County) on May 22, 2014, seeking authority to replace the at-grade crossing with a grade separation structure at the existing crossing of Baptist Road with the tracks of the Union Pacific Railroad Company (UPRR) at UPRR railroad milepost 58.40 of the Joint Line, National Inventory

No. 253077L, in El Paso County, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Intervention by UPRR is granted.

3. The Application is granted.

4. El Paso County is authorized and ordered to proceed with construction of a bridge structure of Baptist Road over the tracks of the UPRR Joint Line and remove the at-grade crossing and active warning devices upon completion and operation of the Baptist Road bridge structure in El Paso County, Colorado.

5. El Paso County shall inform the Commission in writing when the grade separated structure is complete and the at-grade crossing surface and active warning devices have been removed within ten days of completion. The Commission will expect this letter by September 30, 2015. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

6. El Paso County shall file a copy of the signed Construction and Maintenance Agreement by August 30, 2014 prior to the start of any crossing construction.

7. UPRR shall be required to file a copy of the updated crossing inventory form for the crossing in this proceeding at the end of the project by September 30, 2015.

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
July 9, 2014.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners