

Decision No. R14-1294-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0894R

IN THE MATTER OF THE APPLICATION OF ADAMS COUNTY FOR AUTHORITY TO ALTER AN AT-GRADE CROSSING AT LOWELL BOULEVARD (U.S. DOT #253281K AND #094492S) IN ADAMS COUNTY, STATE OF COLORADO.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
SCHEDULING HEARING AND
ESTABLISHING DEADLINES**

Mailed Date: October 27, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On August 27, 2014, Adams County (Applicant) filed an Application for Authority to Alter an At-Grade Crossing at Lowell Boulevard in Adams County, State of Colorado (Application) with the Colorado Public Utilities Commission (Commission).

2. The Commission gave public Notice of the Application on September 3, 2014.

3. The Commission referred this matter to an Administrative Law Judge (ALJ) for disposition.

4. Union Pacific Railroad Company (Union Pacific), BNSF Railway Company (BNSF), Regional Transportation District (RTD), Lobo LLC, (Lobo), and Eddie H. and Carol H. Bohn, and Lake Carol Anne (the Bohns) filed timely interventions. The Bohns request a hearing on the Application. This request warrants a hearing on the Application.

5. The ALJ notes that the following parties have established that their intervention is of right: Union Pacific, BNSF, RTD, and the Bohns. Thus, the ALJ need not make a ruling as to whether their interventions are accepted. See Rule 1401(b) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

6. However, Lobo has not established that its intervention is of right. By Decision No. R14-1266-I, on October 21, 2014, the ALJ ordered Lobo to make a filing supplementing its intervention. Nevertheless, for purposes of this Decision, Lobo will be treated as a party to this proceeding.

7. All parties are advised that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the parties to comply with the Rules of Practice and Procedure. The rules are available on the Commission's website (www.dora.colorado.gov/puc) and in hard copy from the Commission.

8. The ALJ will establish a procedural schedule and will schedule a hearing on the merits of the Application.¹

9. All parties are advised that failure to make disclosures as required by this Decision may result in a decision dismissing the Complaint without prejudice, or a decision preventing the party who violates this Decision from presenting undisclosed witnesses and evidence at the evidentiary hearing.

¹ The ALJ informally offered several hearing dates to the parties and requested the parties respond with their availability by 2:00 p.m. on October 27, 2014. All of the parties that responded are available on the date scheduled for the hearing.

II. ORDER

A. It Is Ordered That:

1. A hearing on the merits of Adams County’s (Applicant) Application for Authority to Alter an At-Grade Crossing at Lowell Boulevard in Adams County, State of Colorado is scheduled as follows:

DATE: January 20, 2015
TIME: 9:15 a.m. each day
PLACE: Commission Hearing Room
1560 Broadway, Second Floor, Suite 250
Denver, Colorado 80202

2. At the above date, time, and place you will be given the opportunity to be heard if you so desire.

3. The Administrative Law Judge has scheduled the hearing for one day. If any of the parties believe that more than one day is needed, such party shall make a filing indicating such. The filing must be made by 5:00 p.m. on November 3, 2014.

4. Applicant shall file with the Commission and serve on all parties its exhibit and witness lists and exhibits on or by 5:00 p.m. MST on December 9, 2014.

5. Union Pacific Railroad Company, BNSF Railway Company, Regional Transportation District, Lobo LLC, and Eddie H. and Carol H. Bohn, and Lake Carol Anne shall file with the Commission and serve on all parties their exhibit and witness lists and exhibits on or by 5:00 p.m. MST on December 19, 2014.

6. Witness lists shall include a description of the witnesses' anticipated testimony, the witnesses' name and job title (if any), and the witnesses' last known address and telephone number.

7. All exhibits shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, Exhibit 3). The parties shall work together to coordinate sequential numbering of all exhibits (*e.g.*, Applicant may agree to use exhibit numbers 1-100, while an intervener uses exhibit numbers 101-200).

8. Exhibits shall be marked to include the following information: exhibit number, proceeding number, name of the witness who will testify to the exhibit's foundation, and the date of the hearing. The parties must have all their exhibits pre-marked and properly identified prior to the time the hearing is scheduled to begin.

9. At the hearing, the parties shall bring enough copies of the pre-marked exhibits they intend to introduce to ensure that there is a copy available: for each party, for the witness stand, for the administrative law judge, one to be treated as the original exhibits.

10. The parties shall also bring to the hearing a completed exhibit list in the format set forth in Appendix A to this Decision.

11. If any exhibit is longer than two pages, the party offering the exhibit shall sequentially number *each page* of the exhibit.

12. Failure to file and serve witness lists as required by this Decision, except witnesses called in rebuttal, may result in a decision prohibiting any undisclosed witnesses from testifying.

13. Failure to file and serve exhibits as required by this Decision, except exhibits for rebuttal or impeachment, may result in a decision rejecting the admission of undisclosed exhibits.

14. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director