

Decision No. C19-0583

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0300R

IN THE MATTER OF THE APPLICATION OF THE CITY OF BOULDER, FOR
AUTHORITY TO UPGRADE RAILROAD CIRCUITRY TO CONSTANT WARNING TIME
AT THE 47TH STREET CROSSING OF TRACKS OWNED BY BNSF RAILWAY
COMPANY, USDOT NO. 244821E, IN BOULDER COUNTY, STATE OF COLORADO.

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

Mailed Date: July 16, 2019
Adopted Date: July 10, 2019

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the City of Boulder (Boulder) on May 30, 2019, seeking authority to upgrade the train detection circuitry to constant warning time detection at the existing crossing of 47th Street with the tracks of the BNSF Railway Company (BNSF) at railroad milepost 32.04 on the Front Range Subdivision, National Inventory No. 244821E, in Boulder, County of Boulder, 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 30, 2019.

3. There were no interventions 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. 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. Boulder is requesting authority to upgrade the train detection circuitry to constant warning time detection at the existing crossing of 47th Street with the tracks of the BNSF.

8. Boulder previously applied to the Commission in Proceeding No. 18A-0628R for authority to make changes at this crossing consisting of extending an existing raised center median on the south approach, relocating advance warning signs and pavement markings, and adding “No Train Horn” plaques because of its desire to obtain a quiet zone at this crossing from the Federal Railroad Administration. The Commission granted that authority by Decision No. C18-0945 mailed October 25, 2019.

9. Boulder found out from BNSF subsequent to approval of the crossing changes by the Commission that the detection at the crossing was not constant warning time as originally stated, so Boulder is now applying to upgrade the existing train detection circuitry to constant warning time to meet the requirements to obtain a quiet zone from the Federal Railroad Administration.

10. Boulder states that there are currently 18 trains per day that use the crossing at a maximum timetable speed of 49 miles per hour (MPH) with no estimates of increases or decreases in these volumes in the future. There are currently 8,000 vehicles per day (VPD) with an estimated 7 percent heavy vehicles and school buses using the crossing at a posted speed limit of 30 MPH with an estimated increase to 8,800 VPD by 2022 and 11,900 VPD by 2037.

11. There have been no accidents at the crossing since 1975.

12. Boulder estimates the cost of the proposed circuitry change is \$17,721 based on the BNSF cost estimate. The costs of the project will be paid for through city funds allocated by the Denver Regional Council of Governments.

13. Boulder proposes to start construction on July 1, 2019. We will require Boulder to inform the Commission in writing when the crossing changes are complete and operational within ten days of completion. The Commission will expect this letter by June 1, 2020. 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.

14. We will require Boulder to update the crossing inventory for the changed crossing conditions and to file a copy of the updated crossing inventory form with the Commission with the completion of the crossing work by June 1, 2020.

C. Conclusions

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

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

17. 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 *Code of Colorado Regulations* 723-1 of the Commission's Rules of Practice and Procedure.

18. 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 City of Boulder (Boulder) on May 30, 2019, seeking authority to upgrade the train detection circuitry to constant warning time detection at the existing crossing of 47th Street with the tracks of the BNSF Railway Company at railroad mile post 32.04 on the Front Range Subdivision, National Inventory No. 244821E, in Boulder, County of Boulder, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application is granted.

3. Boulder is authorized and ordered to proceed with installation of constant warning time circuitry at the 47th Street crossing.

4. Boulder is 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 June 1, 2020. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

5. Boulder will be required to update the crossing inventory form showing the changed crossing conditions and file a copy of that updated inventory form in this proceeding at the end of the project by June 1, 2020.

6. 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.

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

8. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 10, 2019.**

(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

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners