

Decision No. R19-1014-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0552R

IN THE MATTER OF THE APPLICATION OF THE CITY OF WESTMINSTER FOR AUTHORITY TO UPGRADE APPROACH RAILROAD GATES WITH FLASHING LIGHTS, BELLS, CONSTANT WARNING TIME CIRCUITRY, NEW SIGNAL CABIN, UPGRADE OVERHEAD CANTILEVER FLASHERS, AND INSTALL RAISED MEDIANS, AT TRACKS OWNED BY BNSF RAILWAY COMPANY CROSSING LOWELL BOULEVARD, USDOT NO. 244778B, IN ADAMS COUNTY, STATE OF COLORADO.

PROCEEDING NO. 19A-0553R

IN THE MATTER OF THE APPLICATION OF THE CITY OF WESTMINSTER FOR AUTHORITY TO INSTALL RAISED MEDIANS, MODIFY OUTER CURBLINES AND CLOSE AN ADJACENT TURN BAY ON APPROACH TO TRACKS OWNED BY BNSF RAILWAY COMPANY CROSSING WEST 72ND AVENUE, USDOT NO. 244779H, IN ADAMS COUNTY, STATE OF COLORADO.

PROCEEDING NO. 19A-0554R

IN THE MATTER OF THE APPLICATION OF THE CITY OF WESTMINSTER FOR AUTHORITY TO UPGRADE APPROACH RAILROAD GATES WITH FLASHING LIGHTS AND BELLS, INSTALL EXIT RAILROAD GATES TO COMPLETE A 4-QUADRANT GATE INSTALLATION, UPGRADE CIRCUITRY TO CONSTANT WARNING TIME CIRCUITRY, AND INSTALL NEW RAILROAD SIGNAL CABIN, AT TRACKS OWNED BY BNSF RAILWAY COMPANY CROSSING BRADBURN BOULEVARD, USDOT NO. 244780C, IN ADAMS COUNTY, STATE OF COLORADO

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
CONSOLIDATING PROCEEDINGS,
SCHEDULING HEARING AND ESTABLISHING
PROCEDURAL SCHEDULE**

Mailed Date: December 17, 2019

I. STATEMENT

1. On October 15, 2019, City of Westminster (Applicant or the City) filed its application for authority to upgrade approach railroad gates with flashing lights, bells, constant warning time circuitry, and new signal cabin, installation of upgraded overhead cantilever flashers, and installation of raised medians, at tracks owned by BNSF Railway Company (BNSF) crossing Lowell Boulevard, USDOT No. 244778B, in Adams County, State of Colorado. The application was amended on November 14, 2019.

2. On October 15, 2019, Applicant filed its application for authority to install raised medians, modify outer curblines, and close an adjacent turn bay on approach to tracks owned by BNSF crossing West 72nd Avenue, USDOT No. 244779H, in Adams County, State of Colorado.

3. On October 15, 2019, Applicant filed its application for authority to upgrade approach railroad gates with flashing lights and bells, install exit railroad gates to complete a 4-quadrant gate installation, upgrade circuitry to constant warning time circuitry, and install new railroad signal cabin, at tracks owned by BNSF crossing Bradburn Boulevard, USDOT No. 244780C, in Adams County, State of Colorado. The application was amended on November 14, 2019.

4. The Commission gave notice of all three applications on October 16, 2019.

5. BNSF timely intervened of right, opposed the application, and requested a hearing. The City and BNSF are the only parties to three above-captioned proceedings.

6. These matters were referred to an Administrative Law Judge (ALJ) for resolution by minute entry during the Commission's Weekly Meeting held December 4, 2019.

7. By Decision Nos. R19-0977-I, R19-0978-I, and R19-0979-I, issued December 6, 2019, a prehearing conference was scheduled in the above-captioned proceedings at the same date

and time. At the scheduled date and time, the prehearing conference was convened. All parties appeared and participated through counsel.

8. On November 27, 2019, the City filed Applicant's Motion for Denial of BNSF's Request for Hearing in each of the three proceedings. The City addresses BNSF's interventions and asks that the requests for hearing be denied because all filings and designs are proper and appropriate. The City does not contest BNSF's interventions of right and failed to demonstrate that the requests for hearing should be denied. These motions also addressed other relief not specifically addressed during the prehearing conference. Rather, the parties proposed a mutually-agreeable process leading to hearing. Thus, any other requested relief will be denied without prejudice at this time.

9. Commission Rule 1402 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, states that:

Either on its own motion or on the motion of a party, the Commission may consolidate proceedings where the issues are substantially similar and the rights of the parties will not be prejudiced.

10. Observing similarity of proceedings and identity of parties, the undersigned inquired of the parties whether consolidation is appropriate. Neither party objected to consolidation.

11. There is no reason to believe that consolidating these proceedings for hearing purposes will prejudice any party. Indeed, consolidation will promote economy and more efficient use of resources by all concerned. The three proceedings will be consolidated.

12. Based upon other discussion during the prehearing conference, a procedural schedule will be ordered below.

13. **Parties are advised** that no witness will be permitted to testify, except in rebuttal, unless that witness is identified on a list of witnesses filed and served in accordance with the procedural schedule. **Parties are advised further** that no exhibit will be received in evidence, except in rebuttal, unless filed and served in accordance with the procedural schedule.

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

15. Each party is specifically reminded that all filings with the Commission must also be served upon all other parties in accordance with *Rule 1205 of the Rules of Practice and Procedure*, 4 CCR 723-1.

II. **ORDER**

A. **It Is Ordered That:**

1. Proceeding No. 19A-0552R, Proceeding No. 19A-0553R, and Proceeding No. 19A-0554R are consolidated. Proceeding No. 19A-0552R is the primary docket.

2. All parties in each proceeding, by this Order, are parties in the consolidated proceeding. The parties shall modify their certificates of service accordingly.

3. All proceeding numbers and captions in the consolidated proceeding shall be listed on all future filings, as on this Order. The primary proceeding number stated in Ordering Paragraph 1 above and its caption shall appear first.

4. The filing requirements of Rule 1204 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 are modified as set forth in this Ordering Paragraph. In this consolidated proceeding, parties shall file an original and the number of copies of all filings

provided for in Commission's rules under the primary docket, Docket No. 19A-0552R; no copies shall be filed in the additional proceedings to the consolidated proceeding.

5. Applicant's Motion for Denial of BNSF's Request for Hearing filed on November 27, 2019, in each of the above-captioned proceedings are denied.

6. A hearing in this matter shall be conducted at the following date, time, and place:

DATE: February 18, 2020
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

7. The City of Westminster must file its list of witnesses and copies of its exhibits that it will present at hearing no later than February 4, 2020.

8. BNSF Railway Company must file its list of witnesses and copies of its exhibits to be presented at hearing no later than February 11, 2020.

9. The parties shall comply with the requirements established in this Decision and shall make the filings as required by the adopted procedural schedule.

10. This Decision shall be effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director