

Decision No. C20-0486

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0203R

IN THE MATTER OF THE JOINT APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION AND THE CITY AND COUNTY OF DENVER FOR AN ORDER AUTHORIZING WIDENING OF THE EXISTING AT-GRADE CROSSING OF BRIGHTON BOULEVARD AND THE REPLACEMENT OF TRAIN ACTIVATED TRAFFIC SIGNALS WITH THE UNION PACIFIC RAILROAD COMPANY TRACKS AT MILE POST 2.459 ON THE GREELEY SUBDIVISION, PEPSI LEAD CROSSING IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO.

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

Mailed Date: July 6, 2020

Adopted Date: July 1, 2020

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed jointly by the Colorado Department of Transportation (CDOT) and the City and County of Denver (Denver) (collectively Applicants) on May 14, 2020, requesting authority to widen the existing at-grade crossing and replace the train activated traffic signals at the crossing of Brighton Boulevard with the tracks of the Union Pacific Railroad Company (UPRR) at railroad mile post 2.459 on the Greeley Subdivision, Pepsi Lead, National Inventory No. 804397K, in Denver, State of Colorado.

2. The Commission gave notice of this Application (Notice) to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S. The Notice was mailed May 18, 2020.

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. The Applicants are requesting authority to make changes at the existing at-grade, traffic signal controlled crossing of Brighton Boulevard with the UPRR Pepsi Lead. The Applicants propose widening the crossing to add an additional 12' northbound to eastbound turn lane for a new on-ramp for Interstate 70 (I-70), moving the 8' sidewalk further east to accommodate the new turn lane, and replacing the existing traffic signal with a new traffic signal to accommodate the widened crossing, and replacement of rail and crossing surfaces for the wider crossing, and appropriate W10-1 and W10-2 advance warning signage.

8. The new traffic signal control will operate like the existing traffic signal control. The traffic signal will rest in green for Brighton Boulevard traffic until there is detection of a train approaching. Upon detection of a train, the traffic signal for Brighton Boulevard will cycle to amber then red. Once Brighton Boulevard is red, the train will get a green signal to proceed through the crossing. Once the train is clear, the traffic signal on Brighton Boulevard will cycle back to rest in green for Brighton Boulevard. W10-1 railroad crossing advance warning signs will be posted along Brighton Boulevard to inform motorists they are approaching a highway-rail crossing, and a W10-2 will be posted for the off-ramp from I-70.

9. The Applicants state that there are approximately 22,150 vehicles per day (VPD) as of 2012 with approximately 13 percent trucks using the crossing and no school buses regularly using the crossing at a posted speed limit of 35 miles per hour (MPH). This traffic volume is estimated to grow to 2,400 VPD by 2020 and 27,850 VPD by 2035. There are currently approximately three trains per day using the crossing at a maximum speed of 10 MPH with no estimates for increases or decreases in the future.

10. The Applicants estimate the cost of this project at \$493,000 including track work, grading, paving, and signal work with all costs being paid by a combination of private activity bonds, a federal TIFIA loan, private equity funding, and CDOT funds.

11. The Applicants propose to start construction of the project by June 2020 or upon Commission approval and be complete by December 31, 2020.

C. Conclusions

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

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

14. 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, Commission Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

15. We find that good cause exists and that the requirements of public safety are met by granting the Application consistent with the above discussion.

16. The Applicants shall inform the Commission in writing when the crossing construction is complete and operational within ten days of completion. The Commission will expect this letter on or before December 31, 2020.¹

17. The Applicants shall provide an updated crossing inventory for the changed crossing conditions and shall file a copy of the updated crossing inventory form with the Commission concurrent with notice to the Commission of completion of the crossing work initially expected December 31, 2020.

18. Applicants are reminded that ongoing delay and incompliance with Commission orders can present public safety concerns relevant to the Commission's jurisdiction under § 40-4-106, C.R.S., and that pursuant to Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1302(b) of the Commission's Rules of Practice and Procedure and § 40-4-106(1)(b), C.R.S.,² the Commission may impose a civil penalty against a railroad company that fails to comply with a Commission order or rule directing compliance with railroad crossing safety regulations.

II. **ORDER**

A. **The Commission Orders That:**

1. The application (Application) filed jointly by the Colorado Department of Transportation (CDOT) and the City and County of Denver (Denver) (collectively Applicants)

¹ The Commission understands there may be changes or delays in the construction schedule. While a request for extension is not required in the event completion of the construction project goes past December 31, 2020, Denver should inform the Commission through an appropriate filing if delays are anticipated or significant.

² The Commission may pursue a notice of civil penalty assessment on its own motion, or upon consideration of a complaint filed pursuant to Rule 4 CCR 723-1-1302(a) setting forth sufficient facts and information to adequately advise the respondent and the Commission of the relief sought and how a statute, rule, decision or agreement memorialized, accepted, or approved by a Commission decision is alleged to have been violated. Relief requested must be clear, including without limitation, whether the complainant requests the Commission pursue civil penalties.

on May 14, 2020, requesting authority to widen the existing at-grade crossing and replace the train activated traffic signals at the crossing of Brighton Boulevard with the tracks of the Union Pacific Railroad Company (UPRR) at railroad mile post 2.459 on the Greeley Subdivision, Pepsi Lead, National Inventory No. 804397K, in Denver, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application is granted.

3. The Applicants are authorized and ordered to proceed with changes at the existing crossing of Brighton Boulevard with the tracks of the UPRR Pepsi Lead consisting of adding an additional lane, moving sidewalk, replacing the existing traffic signal active warning device, and replacing the track and surface panels and posting of W10-1 and W10-2 signage in the appropriate locations.

4. The existing traffic signal operations will remain and be run in the new traffic signal controller.

5. The Applicants are required to inform the Commission in writing that the crossing changes are complete and operational within ten days after completion.

6. The Applicants shall update the crossing inventory form showing the changed crossing conditions and file a copy of that updated inventory form in this proceeding concurrent with notice of completion of the crossing changes.

7. 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.

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

9. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 1, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners