

Decision No. C21-0239

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 18A-0501R

IN THE MATTER OF THE APPLICATION OF THE CITY OF LOUISVILLE FOR AUTHORITY TO INSTALL 4-QUADRANT RAILROAD GATES WITH FLASHING LIGHTS BELLS, CONSTANT WARNING TIME CIRCUITRY, AND NEW SIGNAL CABIN, AND SURFACING FOR DETACHED SIDEWALK AT TRACKS OWNED BY BNSF RAILWAY COMPANY CROSSING GRIFFITH STREET, USDOT NO. 244803G, IN BOULDER COUNTY, STATE OF COLORADO.

**COMMISSION DECISION REQUIRING
ADDITIONAL 14-DAY NOTICE AND
REQUIRING RULE COMPLIANT FILING**

Mailed Date: April 19, 2021

Adopted Date: April 14, 2021

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. This matter comes before the Commission for consideration of an amended application (Amendment) filed by the City of Louisville (Louisville) on March 8, 2021, requesting authority to further change the crossings as Louisville applied for in 2018 and approved by the Commission by Decision No. C18-0766 mailed September 11, 2018.¹ Through the Amendment, Louisville requests to add photo-radar exit gate vehicle detection to the crossing of Griffith Street with the tracks of the BNSF Railway Company (BNSF), National Inventory No. 244803G, in Louisville, County of Boulder, State of Colorado.

¹ The Commission has jurisdiction in this matter under §§ 40-4-106(2)(a) and (3)(a), C.R.S.

2. On March 23, 2021, Louisville filed the Construction and Maintenance Agreement for the Pine Street Crossing that included the as-yet approved photo-radar exit gate detection system.

3. Currently, there are no other parties to this proceeding. BNSF filed a pleading, but states that if the applications (as originally proposed) were uncontested, it was withdrawing any request for intervention. Because the original application was unopposed, there are no parties other than Louisville in the proceeding. However, despite there being no other parties, Louisville represents that the amendment is “unopposed,” presumably by BNSF alone.

4. The Amendment provides a substantive change to the application as originally approved. We therefore find it necessary to provide supplemental, additional notice of the requested Amendment to the list of adjacent property owners and potential affected utilities. Although the changes are substantive, the addition of the photo-radar exit gate vehicle detection to the crossing as proposed through the Amendment is relatively limited. Through this Decision, we therefore set an additional 14-day additional notice and intervention period. Given the limited scope of the material amendment, we find a 14-day notice period is sufficient such that potentially interested persons may review the Amendment. Following the supplemental notice, the Commission can confirm that the material changes are truly unopposed, and address any subsequent intervention or other pleadings as needed.²

5. Additionally, Rule 4 *Code of Colorado Regulations* (CCR), 723-7-7204(a)(X)(D) of the Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, requires that applications for approval of installation of new active warning devices,

² Pleadings seeking intervention under Commission Rule 4 CCR 723-1-1401 of the Rules of Practice and Procedure, or other appropriate filings to participate in the matter, may be filed within the supplemental notice period.

replacement of existing active warning devices, or replacements of existing drain detection circuitry at crossings include, among other things:

[T]he schematic diagram of the crossing warning devices ... and shall specifically identify the equipment response time, advanced preemption time, minimum warning time, clearance time, buffer time, and total warning time.

6. The Amendment fails to specifically identify the equipment response time, minimum warning time, clearance time, buffer time, and total warning time. Advanced preemption time is included in this rule, but this application did not request any interconnection and preemption of these crossings. Louisville shall work with BNSF to submit schematic diagrams that comply with the requirements of 4 CCR 723-7-7204(X)(D) no later than May 26, 2021 for Commission review and approval.

II. ORDER

A. The Commission Orders That:

1. This Decision serves as supplemental notice of the amended application filed by the City of Louisville (Louisville) on March 8, 2021, requesting authority to further change the crossings as Louisville applied for in 2018 and approved by the Commission by Decision No. C18-0766 mailed September 11, 2018.

2. Additional notice and intervention are provided through this Decision for 14 days from the mail date of the Decision.

3. Louisville shall work with the BNSF Railway Company to submit schematic diagrams that comply with the requirements of 4 *Code of Colorado Regulations* 723-7-7204(X)(D) no later than May 26, 2021 for Commission review and approval.

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

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 14, 2021.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

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Commissioners