

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0159R

IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION FOR AUTHORITY TO REPLACE TRAFFIC SIGNAL CABINET AND ADD BLANK OUT SIGNS AT US 85 AND DUCKWOOD RD, MILE POST 86.18, BNSF RAILWAY, US DOT NO. 440805J IN THE CITY OF FOUNTAIN, EL PASO COUNTY, STATE OF COLORADO.

**INTERIM DECISION
SCHEDULING PREHEARING CONFERENCE**

Mailed Date: July 2, 2024

I. STATEMENT

1. On April 2, 2024, the Colorado Department of Transportation (“CDOT”) filed the above-captioned application (“Application”) requesting authority to add a blank out sign, advance flashing warning beacons, and a modification to the preemption timing at the Duckwood Road crossing of BNSF Railway Company (“BNSF”) and Union Pacific Railroad Company (“UPRR”) on the BNSF Pikes Peak Subdivision, railroad milepost 86.18, National Inventory No. 440805J, in the City of Fountain, County of El Paso, in the State of Colorado.

2. Notice of the Application was provided by the Commission to all interested persons, including adjacent property owners pursuant to § 40-6-108(2), C.R.S., on April 10, 2024.

3. On May 13, 2024, BNSF erroneously filed an Entry of Appearance and Notice of Intervention on behalf of the Great Western Railway Company of Colorado.

4. On May 13, 2024, BNSF filed a Statement Regarding Erroneous Filing that the intervention has erroneously been filed under the Great Western Railway Company of Colorado and attached the correct intervention.

5. On May 14, 2024, BNSF filed the corrected Entry of Appearance and Notice of Intervention. BNSF opposes and contests the Application and requests a hearing on this matter. BNSF opposed the application because CDOT did not file notice from Staff of the Public Utilities Commission (“Staff”) that a crossing safety diagnostic was not required, and that BNSF was not consulted or notified regarding crossing safety diagnostics. BNSF also opposes the Application because CDOT proposes to change the preemption timing from 55 to 59 seconds (but then later states no changes are proposed), and that BNSF is opposed to the change in preemption timing since it exceeds the previously determined preemption timing. BNSF states it did not receive notice of the Application when it was filed.

6. By Decision No. C24-0380-I, issued June 6, 2024, the matter was referred to an administrative law judge (“ALJ”) for determination of completeness, disposition of the interventions, and a determination of the merits of the Application.

7. On July 1, 2024, the Unopposed Motion to Late File an Entry of Appearance and Notice of Intervention was filed by the UPRR. UPRR requests late intervention in the proceeding and states that CDOT does not oppose the requested relief.

8. In anticipation of the hearing, the undersigned ALJ is setting a remote prehearing conference in accordance with Rule 1409(a) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

II. ORDER

A. It Is Ordered That:

1. A fully remote prehearing conference in this Proceeding is scheduled as follows:

DATE: July 12, 2024

TIME: 11:00 a.m.

PLACE: Join by videoconference using Zoom

2. All participants must comply with the requirements in Attachment A to this Decision, which is incorporated into this Decision.

3. This Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

Rebecca E. White,
Director