

Decision No. C19-1049

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0635R

IN THE MATTER OF THE APPLICATION OF COLORADO PACIFIC RAILROAD FOR AUTHORITY TO REPAIR AND UPGRADE A HIGHWAY RAILROAD GRADE CROSSING SIGNAL SYSTEM AT COLORADO STATE HIGHWAY 96 AND COLORADO PACIFIC RAILROAD (SH 96 IN FOWLER, CROWLEY COUNTY), STATE OF COLORADO.

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

Mailed Date: January 2, 2020
Adopted Date: December 27, 2019

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the Colorado Pacific Railroad (CPRR) on November 13, 2019, seeking authority to replace the existing, outdated active warning devices with updated equipment and detection circuitry consisting of flashing lights with gates and bells, a total warning time of 25 seconds, and appropriate advance warning signs and emergency notification signs at the crossing of SH 96 at railroad milepost 866.20, National Inventory No. 421983U, near Fowler, County of Crowley, 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 November 13, 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. CPRR is requesting authority to replace the existing active warning devices at the crossing of SH 96 near Fowler with newer equipment and detection circuitry. The detection circuitry will be changed from a train operating speed of 55 miles per hour (MPH) to 25 MPH and is proposed to provide a total warning time of 25 seconds. Appropriate advance warning signs, crossbucks, and emergency notification signs would also be installed at the crossing as part of the project.

8. CPRR has purchased the railroad line that used to be owned by the Missouri Pacific (MP). The MP stopped running trains in 1999. At the time that the MP was running trains on this line, they ran ten trains per day at a maximum timetable speed of 55 MPH. CPRR operations will be substantially different with CPRR running one train per day at a timetable speed at this location of 25 MPH.

9. CPRR states there are currently 570 vehicles per day that use the crossing with an estimated 28 percent heavy vehicles using the crossing at a posted speed limit of 55 MPH.

10. There has been one property damage only accident at the crossing that happened in 1980.

11. CPRR estimates the cost of the signal replacement at \$119,675 with the railroad paying for the construction. CDOT would be responsible for installation of the advanced warning signs estimated at \$400.

12. Based on a December 2019 decision from the Commission, CPRR proposes starting construction in January 2020 and being complete by March 2020. We will require CPRR 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 March 30, 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.

13. We will require CPRR 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 March 30, 2020.

C. Conclusions

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

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

16. 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.

17. 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 Colorado Pacific Railroad (CPRR) on November 13, 2019, seeking authority to replace the existing, outdated active warning devices with updated equipment and detection circuitry consisting of flashing lights with gates and bells, a total warning time of 25 seconds, and appropriate advance warning signs and emergency notification signs at the crossing of SH 96 at railroad milepost 866.20, National Inventory No. 421983U, near Fowler, County of Crowley, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application is granted.

3. CPRR is authorized and ordered to proceed with replacement of the active warning devices at the crossing of SH 96 near Fowler, Colorado.

4. CPRR 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 March 30, 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. CPRR 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 March 30, 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
December 27, 2019.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners

CHAIRMAN JEFFREY P. ACKERMANN
ABSENT.